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ABSTRACT

This anthology is one of four collections of background readings on church-state issues that comprise "Church, State and the First Amendment: A North Carolina Dialogue." These anthologies are designed to provide primary materials through which North Carolinians can better understand the religion clause of the First Amendment. Volume 4 of the series includes readings on the school prayer controversy, the creationism-evolution debate, the "humanism"-in-the-schools dispute, and government regulation of religious schools. There are seven chapters, each with an introduction and a number of readings, followed by questions for discussion. A 14-item bibliography is included. (AS)

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Church, State and Education

edited by

Waldo Beach

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CHURCH, STATE and the FIRST AMENDMENT:

A North Carolina Dialogue

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The Program in the Humanities and Human Values of The University of North Carolina at Chapel Hill under a grant from The National Endowment for the Humanities

Church, State and Education
edited by
Waldo Beach

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

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CHURCH, STATE AND THE FIRST AMENDMENT: A NORTH CAROLINA DIALOGUE

Volume I: *Religion and Government in Other Countries*

Edited by James C. Livingston

Professor Livingston teaches in the Department of Religion at the College of William and Mary. The author of *Modern Christian Thought: From the Enlightenment to Vatican II,* he recently edited an anthology entitled *Religious Thought in the Eighteenth Century.* In *Religion and Government in Other Countries,* Professor Livingston presents readings on the role of religion in other societies: the Islamic Republic of Iran, England, France, Germany, the USSR, and Israel. This anthology provides foreign models against which we can judge the strengths and the weaknesses of our own constitutional arrangements.

Volume II: *Religion and Law in American History*

Edited by John E. Semonche

Professor Semonche, a lawyer and historian, teaches American constitutional and legal history in the Department of History at the University of North Carolina at Chapel Hill. He is the author of *Charting the Future: The Supreme Court Responds to a Changing Society, 1890-1920* and *Ray Stannard Baker: A Quest for Democracy in Modern America, 1870-1918.* In Part I of this anthology, Professor Semonche presents selections which address the historical and philosophical background of the religion clauses. In Part II he presents selections from the major court opinions on the relationship of religion and government.

Volume III: *Church, State and American Culture*

Edited by Giles Gunn

Professor Gunn is a member of the Department of Religious Studies and the Curriculum in American Studies at the University of North Carolina at Chapel Hill. The author of a number of studies on religion and literature, Professor Gunn recently edited *New World Metaphysics* and *The Bible and American Arts and Letters.* He is also the author of *The Interpretation of Otherness.* In *Church, State and American Culture,* he presents readings on the tensions between America's strong religious heritage and the secularism of her fundamental law.

Volume IV: *Church, State and Education*

Edited by Waldo Beach

Professor Beach teaches in the Divinity School of Duke University. Among his publications are *Christian Community and American Society, The Wheel and the Cross: A Christian Response to the Technological Revolution,* and *The Christian Life.* In this anthology, he includes readings on the school prayer controversy, the creationism-evolution debate, the 'humanism'in-the-schools dispute, and government regulation of religious schools.

These anthologies are available for use in community programs sponsored by non-profit organizations.To obtain copies, contact CHURCH, STATE AND THE FIRST AMENDMENT: A NORTH CAROLINA DIALOGUE, 209 Abernethy Hall, University of North Carolina at Chapel Hill, Chapel Hill, NC 27514.

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Preface

Throughout the 1984 national election a debate raged over the proper relationship between church and state in this country. News magazines devoted cover stories to the topic. Talkshows featured prominent religious leaders, politicians, and civil libertarians who offered their opinions on issues ranging from school prayer to the nuclear freeze. In nationally televised debates President Ronald Reagan and former Vice President Walter Mondale confronted questions about their personal religious beliefs and how these beliefs might affect their decisions in public office. Concerned clergymen signed a statement warning of the dangers of "Armageddon theology." Emotions ran high and disagreements were sharp. Although the 1984 election is past, Americans continue to struggle with the proper role of religion in politics, education, and culture.

Yet despite the quantity of discussion, the quality of the debate is often not of the caliber we would wish. Too often we talk past each other; too often we fail to listen to what others say. Because in a pluralistic society we Americans are divided by basic and frequently unnoticed assumptions about religion, the purposes of the state, and the principles of constitutional law, we frequently fail to recognize the underlying reasons for our disagreements.

CHURCH, STATE AND THE FIRST AMENDMENT: A NORTH CAROLINA DIALOGUE seeks to provide citizens of the state with opportunities to examine closely the meaning of the two religion clauses of the First Amendment. Through public forums and debates, community programs, study groups, and radio and television documentaries, this project encourages North Carolinians to place church-state issues into broader historical, religious and philosophical contexts, and to gain a wider perspective on the separation of church and state in America by comparing it with the relationship between religion and government in other countries.

This anthology is one of four collections of background readings on church-state issues designed to provide primary materials through which North Carolinians can better understand the religion clauses of the First Amendment. Each anthology has been edited by an acknowledged scholar. With insight into the complexities of the topic and fairness to divergent points of view, these editors have selected materials representing a wide range of philosophical, religious, and political perspectives. They have included historical and legal documents, essays by philosophers and observers of the American scene, as well as newspaper and magazine articles. Readers will therefore find in these anthologies both "A Secular Humanist Declaration" and "A Christian Manifesto." They will discover selections from the "left" and from the "right," as well as from authors who strive for a middle ground. In no case is the aim of an anthology to tell readers what to think about these issues; rather each anthology seeks to provide readers with a better basis for civil and informed dialogue on questions confronting our society. We hope that these four collections of readings on church-state relations will contribute to serious inquiry into the place of religion in American society and that they will help us talk and listen to each other about issues which vitally affect us all.

CHURCH, STATE AND THE FIRST AMENDMENT: A NORTH CAROLINA DIALOGUE is sponsored by the Program in the Humanities and Human Values of the College of Arts and Sciences at the University of North Carolina at Chapel Hill. The mission of the Program is, in part, to develop and sponsor a wide variety of educational programs for the public of North Carolina which bring to bear the perspective of the humanities on important social, moral, and cultural issues. Major funding for this project has been provided by the National Endowment for the Humanities. We are grateful to the Endowment for their generous support.

I wish to thank Warren Nord, Director of the Humanities Program, whose idea this project originally was; Richard Schramm, who was the first project director; and Patricia Owens, the Humanities Program secretary. The Publications staff of the Division of Extension and Continuing Education at the University of North Carolina at Chapel Hill has put long hours into the preparation of these anthologies. I am particularly grateful to June Blackwelder, Mary Marshall Culp, Donna Marlette and Julia Klarmann for their patience and attention to detail. Marcia Decker and Marie Evans provided assistance with proofing and layout. I also appreciate the help provided by the staff of the Davis Library at UNC-Chapel Hill, especially that of Mary Ishaq and the Humanities Reference Department. The Project Advisors for CHURCH, STATE AND THE FIRST AMENDMENT read manuscripts of the anthologies and offered valuable suggestions. The Printing and Duplicating Department at UNC-Chapel Hill printed and bound the volumes. Most importantly, I thank the editors of the anthologies. They have succeeded in the difficult task of making complex issues understandable to a non-academic audience, and they have accepted suggestions for changes without losing their sense of humor.

Diane Sasson
Project Director

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Chapter One

Chapter One

A Likely Scenario

I

It was more than the early December nip in the air that made Jim Norton and his wife edgy as they drove down to the PTA meeting at Lakewood Elementary School. They had been pleased that Johnny, their oldest son, had been asked to be Joseph in the Christmas story pageant that the sixth grade was putting on in the auditorium on the last day before Christmas break, and that Stella, their younger daughter, had been rehearsing some Christmas carols that were to be sung as part of the celebration.

What upset the Nortons was that the parents of two of the children in the school had protested to the principal, Mrs. Cartwright (who had referred the matter to the school superintendent), that a Christmas pageant in a public school was not appropriate. The superintendent had then decided that they would have a party instead of a Christmas pageant, but there would be no singing of Christmas carols. This had been announced to the children just three days before the Big Day. Johnny and Stella were disappointed and bewildered, and their parents were angry.

They arrived at the school, and when the PTA meeting had been called to order, Mr. Norton rose to express his objection to the decision that had been made. "I don't understand. We've had this celebration as long as I can remember living in this neighborhood, and it's meant a lot to the children. Sure, I believe in the separation of church and state, but certainly that doesn't mean that we can't allow our children to celebrate Christmas at school just as much as at home or at church. After all, don't they pledge allegiance every day to 'the flag of the United States of America and to the Republic for which it stands, one nation, under God. . .'? Isn't Christmas a public national holiday? Maybe not all of us in this room are church-going Christians, but most of us are. Why can't our children honor Christmas in the traditional way we've done for years?" (He sat down to audible murmurs of approval.)

Then Mr. Palmer rose. Addressing the Chair, he said: "Madame, with all due respect, may I explain my reasons for registering my objections to this Christmas pageant. I am a lawyer. Our family are not members of any church. Don't misunderstand me. I certainly respect the rights of the Christian families here to observe Christmas in their homes and churches, just as Jewish families observe Yom Kippur and Hanukkah and their other holy days in their homes and synagogues. But I believe I'm correct in interpreting the law and recent decisions of the courts that the celebration of particular sectarian rites in tax-supported institutions like public schools is unconstitutional–is illegal–under the First Amendment. I mean no offense, but it would trouble me to have my children asked to participate in a Christmas pageant or sing carols about Jesus."

A woman rose in the back of the room: "Excuse me, sir, I'm a housewife. I'm not a lawyer. What is the First Amendment? Is that the one about the 'wall of separation between church and state'?"

Mr. Palmer: "No, not exactly. The First Amendment to the Constitution is the first of the Bill of Rights, first applicable to the Federal Government and then later through the Fourteenth Amendment to the several states. It says specifically that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'"

Mr. Norton: "Okay. If the school board or superintendent won't allow the Christmas pageant, doesn't that 'prohibit the free exercise' of religion? Wouldn't that be denying civil rights, like freedom of speech, or freedom of the press? And last March, as I recall, the Supreme Court ruled that it was perfectly legal to have a Christmas creche scene on display in the town square of Pawtucket, Rhode Island, paid for by tax funds. Why can't we enjoy the same religious rights in our public schools?"

Mr. Palmer: "Well, but remember: the first part of the Amendment, the 'Establishment Clause,' means, as I understand it, that the government cannot *favor* one religion over another. Having a public-school-sponsored Christmas pageant means to act as though Christianity is the official religion, and that's discriminatory. It's a sly sort of 'establishment.' Furthermore, I don't know whether there are any members of the Baha'i Church or maybe Black Muslims in our community. The Ling family, the Thailand refugess who were Buddhists, aren't here anymore, I understand. But if they were, I don't know how they would feel about having their children exposed to a Christian ritual. Sure, I know most of you in this room are Christians, but it seems to me we have to protect the rights of all citizens. That's what the First Amendment was intended to do in the first place."

(There is a long, awkward silence.)

Mrs. Norton: "It seems to me we've reached a kind of stalemate. We're stuck. I wonder if we can get any help from school officials. Is there some stated policy of the State Board of Education on this matter? Maybe Mrs. Cartwright, our principal, can give us some guidelines."

Mrs. Cartwright: "Yes, perhaps I can help. I sensed before this meeting that there would be some strong feelings on this matter, and I secured from the State Board of Education a statement of policy that might help us. Let me read from this about the 'Recognition of Religious Beliefs and Customs.'

Paragraph 4 says:

> Assemblies of students which include religious worship or ceremonies or are of an evangelistic nature are not allowed. However, assembly programs which are inspirational in nature are not prohibited, provided that they conform to these regulations.

On the matter of 'Multicultural Education,' paragraph 2 states:

> Recognition of major holidays, whether religious or secular, is a means of acquainting students with the variety of beliefs and practices in the culture. In recognizing any such holidays, care should be taken to maintain the rights of religious minorities and non-religious persons by avoiding the over-emphasis of one heritage over another. Within reasonable limits, teachers should refrain from activities which would exclude any child and add activities which will include every child during the course of the school year.

Finally, paragraph 5 says:

> Holiday symbols, whether religious or secular in nature, are permitted as examples of cultural traditions provided that they are temporary, that they are educational, and that they do not constitute the observance or celebration of religion by the school or its personnel."

Mrs. Norton: "Thank you, Mrs. Cartwright. That does give us some guidelines to follow, though I must say I'm a bit confused about some of them. 'Inspirational programs' are okay, but 'evangelistic' ones are not. That's a thin line. How do you distinguish between an inspirational program and an evangelistic one?

"May I make a suggestion? Maybe what's been decided for this year is water over the dam. Perhaps next year we might think of having a holiday celebration when we might invite the Rabbi from the synagogue to come in on December 1st to explain the Hanukkah festival and its meaning for Jewish families. Then also, before the Christmas holiday, we could have our traditional Christmas pageant and carol singing. That way we might be sensitive to the feelings of most all the religious groups in our community and not offend anyone."

Chair: "Thanks. I'm afraid we'll have to close off the discussion since we've got other business to attend to. But I'm very grateful for this exchange of views."

Driving home, the Nortons were silent. Finally, Mr. Norton said, "What do you think, dear?" Mrs. Norton: "I dunno. I felt frustrated about where we come out. I'd like to think more about it and find out more about what's legal and what isn't. Mr. Palmer certainly has a point in what he said. But the kids, for this year anyway, are surely going to be disappointed. And frankly, I'm kind of put out by the whole thing."

II

This exchange at the PTA meeting dramatizes, in much too simple a fashion, many problems involved in the issues of church-state relations in education, both public and private. The purpose of this booklet is to probe into these problems, to weigh the pros and cons, to engage concerned citizens—parents, teachers, lawyers, school administrators, school boards, and students—in civil dialogue between persons who may be of sharply diverse opinions about the place of religion in our current system of public education. Of the many problems about church-state relations in America–tax exemptions, conscientious objection, church influence on national or state legislation, etc.--the issues of church-state relations in education are both the most urgent and the most tangled.

We will not be dealing at any length with the *history* of the matter. That has been covered in other booklets in this series. But we should recall, as a starter, that although the framers of the First Amendment did not so intend, the two parts of the phrasing of it have proved over and over again to collide. The Establishment Clause is separatist in intent, distancing church and state from each other. The Free Exercise Clause is permissive in intent, opening the gate to the expression of religious rights in public as well as private. As Chief Justice Burger once noted, the two clauses are "cast in absolute terms, and either of which, if expanded to a logical extreme, would tend to clash with the other." (*Walz v. Tax Commission of New York City*, 1970) This tension between the two clauses is at the heart of all the current heated controversies about church, state, and education in America in general, and North Carolina in particular.

Here is a roster of the main "hot" items now being debated, not just in local PTA meetings and church conferences, but in Congress and in the courts:

- Is it lawful or unlawful to have religious ceremonies, symbols, and rituals in public, tax-supported institutions? At the protest of a faculty member of the Law School at the University of North Carolina at Chapel Hill, the symbol for the Star of Bethlehem, which had been displayed during Advent season traditionally for some twenty years, was removed from the Morehead Planetarium on the campus at Christmastime in 1982, since such a display, it was claimed, violated the principle of "separation of church and state." (It was put back on display two years later.) Should baccalaureate services be held on state university campuses at graduation time? At the Lakewood Elementary School, is the Christmas pageant legal? Is carol singing at the assembly hour? And how about Bible reading as part of the daily opening exercises, following the pledge of allegiance to the flag?

- The proposed constitutional amendment allowing "voluntary prayer" in the public schools is strongly supported by evangelical Protestant Chrisitans and the President himself. In the Senate, a majority voted in favor of the proposal but did not obtain the two-thirds needed for a constitutional amendment. A popular bumper sticker seen around the state says "Let US pray," with the *US* colored in red, white, and blue. This proposed amendment is as vigorously opposed by the American Civil Liberties Union. Well, if a spoken prayer is not legal, then at least the public schools should be allowed to prescribe a "moment of silence." Is such a "moment of silence" a religious ceremony? Is this "voluntary" or "mandated"? In 1984, the Supreme Court agreed to rule on the constitutionality of this practice.

- A debate rages about the teaching of "scientific creationism," based on the biblical account of creation in Genesis, as an alternative to the Darwinian theory of evolution, standard in high school biology textbooks.

- What about the constitutionality of including courses in religion in the curriculum of primary and secondary schools or, for that matter, in state universities? If the Bible can be taught, then which version should be used, and how should it be taught? What about courses in the Christian faith, in religious ethics, in world religions?

- The issue of school facilities for meetings of religious groups before or after school hours is another area of debate. Two bills, proposed by Senators Denton and Hatfield, would require those schools receiving federal aid to allow student groups requesting assembly for religious purposes during "non-instructional" periods the same opportunity as other groups making such a request. In May, 1984, a comparable measure to permit voluntary student religious meetings during non-class hours in public high schools, monitored but not led by school employees, was passed by a 270 - 151 vote in the House of Representatives, 11 votes short of the two-thirds required in the passage of such a bill. But a latter version of the bill was passed and has become law.

- Tax exemption and/or tuition tax credits for parents of students in private or church-related schools are measures supported by President Reagan and, when first proposed in the Senate in 1977, were sponsored by such conservatives as Senators Helms and Thurmond and by the liberal Senators Humphrey and McGovern. One student of the church-state matter affirms that "the longest running most persistent source of tension between church and state in America is the school aid issue."[1]

- Another area of disagreement revolves around the book-banning crusades where certain religious groups demand the removal of books deemed offensive in themes or in language from the public school libraries or from prescribed reading lists.

- Finally, what are the constitutional rights and obligations of the state or federal government to regulate practices and policies of private and parochial schools? On such matters as minimal health and safety standards, minimal attendance requirements, teacher accreditation standards, and student competency tests, how far should the state control the practices of the churches and synagogues in their education programs?

To all of these issues there are no simple, neat answers. Lower and higher court decisions have swung back and forth, sometimes giving priority to the Establishment Clause, sometimes to the Free Exercise Clause. The courts have not intended to waiver or to be inconsistent. The reason for the confusion is that these court cases are but tips of icebergs that surface above profoundly serious and difficult issues of a philosophical and religious sort—issues about the character of American culture, the values cherished, the purposes of education, and the differing shades of meaning to key words like "freedom," "rights," "separation," "church," even the term "religion" itself. This study booklet is intended to sort out and clarify these issues by listening to voices who speak from different sides, in the hopes that through such dialogue—where each will listen to the other—a kind of working consensus among the concerned citizens of North Carolina can be realized.

One thing is clear from the start: radical and complete separation of church and state is not possible. To quote Chief Justice Burger again (*Lemon v. Kurtzman*, 1971), "the line of separation, far from being a 'wall,' is a blurred, indistinct, and variable barrier depending on all the circumstances of a particular relationship." There has to be some sort of relationship. The real question is: what sort of relation would do the best proximate justice to the two apparently clashing clauses of the First Amendment?

---

[1] Thomas Derr, "The First Amendment as a Guide to Church-State Relations," in *Church, State, and Politics*, ed. Jaye Hensel (1981), p. 82.

Questions for Discussion

1. Do you think that the protection of Mr. Palmer's rights should be honored by cancelling the Christmas pageant, or should the Nortons' rights take precedence?

2. Do you think that the proper place for education and nurture in religious faith belongs in the church and home, not in public schools? In your own experience, as parents or church members, how significant has this home and church nurturing been for your children?

3. How would you respond to the recommendation from the State Board of Education that students in public schools may properly observe non-Christian holidays and ceremonies by having such rites as native American dances, African songs, Buddhist rites from China, as well as a variety of Jewish and Christian customary ceremonies?

Chapter Two

Chapter Two

"One Nation, Under God"

This chapter will consider the position of those of strong convictions who support the need for religion in public education. We will listen to their protests against court decisions that have ruled unconstitutional the "free exercise" of religion and the expression of the Judeo-Christian heritage in state- supported education. Though most vigorously voiced by the neoevangelical Right, many Christians of main-line denominations across the spectrum of churches in America also hold these views. For instance, according to a recent Gallup poll (if such polls can be trusted), 79 percent of Americans approved "voluntary prayer" in public schools.

The basic premise of this position is that the Judeo-Christian faith is the hidden but crucial foundation of American democratic policies and practices. Those who seek a more active expression of religious belief in public education argue that there is persuasive historic evidence for their claim. They point to the Declaration of Independence, which proclaims it "self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights. . . ." The new nation was established, the authors of the Declaration said, "appealing to the Supreme Judge of the world for the rectitude of our intentions" and "with a firm reliance on the Protection of Divine Providence." Thus, those who support religion in the national life argue that the Declaration of Independence is not a "secular" document. Such phrases in the Declaration are not just pious rhetoric; rather they express a strong belief in a theistic premise for the American Revolution.

In the view of many religious people, this spiritual heritage—the sense of living under a Divine Rule—provides the unseen sinews of our common life, the "esprit de corps" of the body politic. From this perspective, the delicate balance between tyranny and anarchy in the democratic community cannot be imposed from without by law, but must be cultivated and sustained from within in the hearts and minds of the citizens, who feel accountable to the Lord of the universe and who respect the sacred worth of persons as the moral mandate of God. In short, they believe that the ethics of civility—"with liberty and justice for all"—rests upon the religious spirit of reverence. Therefore, when officers of state are sworn in and take their "solemn" oaths with one hand on the Bible, or when children in school pledge allegiance to the flag of "one nation, under God," or when "In God We Trust" is printed on American currency, or when every inaugural address of a President of the United States contains a reference to God, these are more than pious, perfunctory, and empty gestures. These rituals remind us of the precious religious heritage of American democracy that should be honored and preserved.

Thus, when a Tennessee Court in 1982 banned the posting of the Ten Commandments on the bulletin boards of public schools in that state, many Americans protested that such a ruling runs directly against the special spiritual heritage of our nation.

Or, consider the following judgments rendered by the Supreme Court in its 1947 Everson decision:

> Neither a state nor the federal government . . . can pass laws that aid one religion, aid all religions, or prefer one religion over another. No tax in any amount can be levied to support any religious activities or institutions, whatever they may be called or whatever form they may adopt to teach or practice religion.

Many Americans feel that these statements fly in the face of the moral heritage of our nation. Would not the implementation of this ruling, they ask, undermine the very foundation of our common life? During the Presidential election campaign in the Fall of 1984, this matter became an important issue, sharply debated. In a speech at an ecumenical prayer breakfast in Dallas on August 23, 1984, at the time of the Republican National Convention, President Reagan voiced a strong conviction about the necessary interrelation of religion, morality, and politics. These were some of his words:

> The truth is, politics and morality are inseparable. And as morality's foundation is religion, religion and politics are necessarily related. We need religion as a guide. We need it because we are imperfect. And our government needs the church because only those humble enough to admit they're sinners can bring democracy the tolerance it requires in order to survive. . .
>
> We established no religion in this country nor will we ever. We command no worship. We mandate no belief. But we poison our society when we remove its theological underpinnings. We court corruption when we leave it bereft of

belief. All are free to believe or not to believe. All are free to practice a faith or not.

> But those who believe must be free to speak of and act on their belief to apply moral teaching to public questions...
>
> If we ever forget that we're one nation under God, then we will be a nation gone under.
>
> *New York Times*, Friday, August 24, A 11

This issue is of crucial importance in the philosophy of education, private as well as public. Up until perhaps the early part of this century, religious faith was an integral part of education at all levels, private and public. In the colonial era, schools were under church auspices and control; piety and learning were intertwined. In the 19th century, with the rise of the public school movement, common education—though no longer under church control—was permeated by a Protestant reverence and ethical spirit, as can be confirmed by the "McGuffey's Readers," standard diet in the lower common schools. As Horace Mann, the leading promoter of the common school movement, wrote:

> I have bound to show, that so far from its being an irreligious and anti-Christian or an un-Christian system it is a system which recognizes obligations in their fullest extent; that it is a system which invokes the religious spirit; that it inculcates the great commands, upon which hang all the law and the prophets; that it welcomes the Bible, and therefore welcomes all the doctrines which the Bible really contains, and that it listens to these doctrines so reverently, that, for the time being, it will not suffer any rash mortal to trust in his interpolations of their meaning, or overlay the text with any of the "many inventions" which the heart of man has sought out.[1]

In earlier epochs of our history, the dominant philosophy of education was training for responsible citizenship, and that meant instilling a spirit of accountability and moral responsibility. Education aimed at the cultivation of conscience. But with increasing secularization, many feel that education has become more and more *technical*, that is, aimed toward equipping persons in technical skills to cope with life's demands in a technological society. In the curricula of lower and higher education, the humanities have declined, the sciences have prospered. But a purely technical education without the nurture of consciences sensitive to moral ends can be very dangerous. Thus many observers point with alarm, and with considerable empirical evidence, to the decline in the practice of the ethics of civility in school life: stealing, cheating, licentious sexual behavior, disorderly conduct, drug addiction, even rape of schoolteachers. Moral illiteracy scores decline more dangerously than SAT scores. We may sing of "freedom's holy light," but if the spirit of holiness is absent from the exercise of freedom and rights, freedom falls into license.

Consequently, many Americans feel that the only way to reverse this ominous trend is to "put God back into our schools," that is, to recover the spirit of reverence which is "the beginning of wisdom," as the psalmist says, for "to depart from evil is understanding." They agree with Kingman Brewster who in one of his last reports as President of Yale University wrote: "The development of a capacity for moral judgment should be a major aim of liberal education." They believe that this norm should also be the aim of primary and secondary education—for the children at Lakewood Elementary School as well as students at Yale University. Asserting that such moral education can only be nurtured by instilling the heritage of Christian faith into the young, they advocate the need for prayer in the public schools.

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[1] Horace Mann, "Education of Free Men," in *Classics in Education*, ed. Lawrence Cremlin, New York: Teachers College, Columbia University, 1959, p. 111.

* * *

Reading 1: *Zorach v. Clauson* (1952)

In *Zorach v. Clauson*, Justice William Douglas wrote the majority opinion ruling constitutional a "released-time" plan which allowed children, with parental permission, to be released during regular school hours to go to religious centers for religious instruction by teachers paid by churches or synagogues. Though a few years earlier, in the *McCollum* case, the court had ruled that "dismissed time"—when students received religious instruction *within* the public school buildings—was unconstitutional, in the *Zorach* case the opinion of Justice Douglas affirmed the position of a "benevolent neutrality" of the state toward religion.

From the Majority Opinion:

There cannot be the slightest doubt that the First Amendment reflects the philosophy that church and state should be separated. And so far as interference with the "free exercise" of religion and an "establishment" of religion are concerned, the separation must be complete and unequivocal. The First Amendment within the scope of its coverage permits no exception; the prohibition is absolute.

The First Amendment, however, does not say that in every and all respects there shall be a separation of church and state. Rather it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. That is the common sense of the matter.

Otherwise the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly. Churches could not be required to pay even property taxes. Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution.

Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; 'So help me God' in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment.

A fastidious atheist or agnostic could even object to the supplication with which the court opens each session: 'God save the United States and this honorable court.'

We would have to press the concept of church and state to these extremes to condemn the present law on constitutional grounds. The nullification of this law would have wide and profound effects.

A Catholic student applies to his teacher for permission to leave school during hours on a Holy day of Obligation to attend a mass. A Jewish student asks his teacher for permission to be excused for Yom Kippur. A Protestant wants the afternoon off for a family baptismal ceremony.

In each case the teacher requires parental consent in writing. In each case the teacher, in order to make sure the student is not a truant, goes further and requires a report from the priest, the rabbi or the minister.

The teacher, in other words, cooperates in a religious program to the extent of making it possible for her students to participate in it. Whether she does it occasionally for a few students, regularly for one, or pursuant to a systematized program designed to further the religious needs of all the students does not alter the character of the act.

We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom of worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of Government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma.

When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs.

To hold that it may not would be to find in the Constitution a requirement that the Government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe.

Government may not finance religious groups nor undertake religious instruction or blend secular and sectarian education nor use secular institutions to force one or some religion on any person. But we find no constitutional requirement which makes it necessary for Government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence.

The Government must be neutral when it comes to competition between sects. It may not thrust any sect on any person. It may not make a religious observance compulsory. It may not coerce anyone to attend church, to observe a religious holiday, or to take religious instruction.

But it can close its doors or suspend its operations as to those who want to repair to their religious sanctuary for worship or instruction. No more than that is undertaken here.

* * *

Reading 2: President Ronald Reagan

"Message from The President of The United States Transmitting a Proposed Amendment to the Constitution of The United States to Allow Voluntary Prayer in Public Schools or other Public Institutions. May 18, 1982." Washington, D.C.: U.S. Government Printing Office, 1982.

The following statement from the White House supports a proposal allowing for voluntary prayer in the public schools. The exact wording of the proposed constitutional amendment, as it finally came to the floor of the Senate, read:

> ✓ Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or any state to participate in prayer. Neither the United States nor any state shall compose the words of any prayer to be said in public schools.

On July 26, 1984 the U.S. House of Representatives by a vote of 356-50 passed the following version of the amendment:

> ✓ No State or local educational agency shall deny individuals in public schools the opportunity to participate in moments of silent prayer. Neither the U.S. nor any state or local educational agency shall require any person to participate in prayer or influence the form or content of any prayer in such public schools.

The differences in the Senate and House versions remain to be worked out.

President Reagan's Message to the 97th Congress

TO THE CONGRESS OF THE UNITED STATES:

I have attached for your consideration a proposed constitutional amendment to restore the simple freedom of our citizens to offer prayer in our public schools and institutions. The public expression through prayer of our faith in God is a fundamental part of our American heritage and a privilege which should not be excluded by law from any American school, public or private.

One hundred fifty years ago, Alexis de Tocqueville found that all Americans believed that religious faith was indispensable to the maintenance of their republican institutions. Today, I join with the people of this nation in acknowledging this basic truth, that our liberty springs from and depends upon an abiding faith in God. This has been clear from the time of George Washington, who stated in his farewell address:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports.... And let us with caution indulge the supposition that morality can be maintained without religion.... (R)eason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

Nearly every President since Washington has proclaimed a day of public prayer and thanksgiving to acknowledge the many favors of Almighty God. We have acknowledged God's guidance on our coinage, in our national anthem, and in the Pledge of Allegiance. As the Supreme Court has stated: "We are a religious people whose institutions presuppose a Supreme Being."

The founders of our nation and the framers of the First Amendment did not intend to forbid public prayer. On the contrary, prayer has been part of our public assemblies since Benjamin Franklin's eloquent request that prayer be observed by the Constitutional Convention:

> I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men.... I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel: We shall be divided by our little partial local interests; our projects will be confounded, and we ourselves shall become a reproach and bye word down to future ages....
>
> I therefore beg leave to move—that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business....

Just as Benjamin Franklin believed it was beneficial for the Constitutional Convention to begin each day's work with a prayer, I believe that it would be beneficial for our children to have an opportunity to begin each school day in the same manner. Since the law has been construed to prohibit this, I believe that the law should be changed. It is time for the people, through their Congress and the state legislatures, to act, using the means afforded them by the Constitution.

The amendment I propose will remove the bar to school prayer established by the Supreme Court and allow prayer back in our schools. However, the amendment also expressly affirms the right of anyone to refrain from prayer. The amendment will allow communities to determine for themselves whether prayer should be permitted in their public schools and to allow individuals to decide for themselves whether they wish to participate in prayer.

I am confident that such an amendment will be quickly adopted, for the vast majority of our people believe there is a need for prayer in our public schools and institutions. I look forward to working with Congress to achieve the passage of this amendment.

–Ronald Reagan
THE WHITE HOUSE
May 17, 1982.

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

ANALYSIS

I. THE RELIGIOUS HERITAGE OF THE NATION

(4) From the birth of the United States, public prayer and the acknowledgement of a Supreme Being have been a foundation of American life. Government officials have continually invoked the name of God, asked His blessings upon our nation, and encouraged our people to do the same. One of the most striking examples of this invocation of God's blessing and assistance is found in the Declaration of Independence, which proclaims it "self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights. . . ." The new nation was established, the authors of the Declaration said, "appealing to the Supreme Judge of the world for the rectitude of our intentions" and "with a firm reliance on the Protection of Divine Providence. . . ."

Similarly, the First Congress, which drafted the language of the First Amendment, not only retained a chaplain to offer public prayers, but, the day after proposing the First Amendment, called on President Washington to proclaim "a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God." Nearly every President since Washington (including Lincoln, both Roosevelts and Kennedy) has proclaimed a national day of prayer and thanksgiving. The First Congress also amended and continued in effect the Northwest Ordinance of 1787, the original text of which provided in part: "[r]eligion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

In his Farewell Address, President Washington urged: "[L]et us with caution indulge the supposition, that morality can be maintained without religion. . . . Reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle." Thomas Jefferson wrote: "And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God?"

Coins have borne the legend "In God We Trust" since 1865, and this was made the national motto in 1956. In 1952, Congress directed the President to proclaim a National Day of Prayer. In 1954, Congress added the words "under God" to the Pledge of Allegiance to acknowledge this heritage. The House Judiciary Committee explained:

> This is not an act establishing a religion or one interfering with the "free exercise" of religion. A distinction must be made between the existence of a religion as an institution and a belief in the sovereignty of God. The phrase "under God" recognizes only the guidance of God in our national affairs.

Many patriotic songs similarly acknowledge dependence upon God and invoke His blessings. One stanza from the National Anthem includes the phrases "Praise the Pow'r that hath made and preserved us a nation" and "And this be our motto, 'In God is our Trust.'" The fourth stanza of "America" reads:

> Our fathers' God, to Thee, Author of Liberty,
> to Thee we sing.
> Long may our Land be bright with freedom's holy
> light,
> Protect us by Thy might, Great God our King.

Most recently, the House of Representatives adopted a resolution, by a 388-0 vote, reaffirming its practice of retaining a chaplain to begin its sessions with prayer.

These examples only confirm the tradition of publicly declaring and encouraging a belief in and dependence upon God. As the Supreme Court has stated: "We are a religious people whose institutions presuppose a Supreme Being."

II. TRADITION OF PRAYER IN THE PUBLIC SCHOOLS

(5)

In keeping with the nation's heritage of public prayer, there has been a long tradition of including some form of prayer in the public schools ever since their inception. As early as 1789, for example, the Boston school committee required schoolmasters "daily to commence the duties of their office by prayer and reading a portion of the Sacred Scriptures." A commission supporting the establishment of a public school system in New York in 1812 reported that "Morality and religion are the foundation of all that is truly great and good, and are consequently of primary importance." There was a considerable effort in the 19th century to avoid the use of "sectarian books and sectarian instruction." For example, the Massachusetts Board of Education headed by Horace Mann removed sectarian instruction from the schools but also prescribed a program of "daily Bible readings, devotional exercises and the constant inculcation of the precepts of Christian morality." Thus, the requirement of nonsectarian instruction generally was not thought to preclude prayer or Bible readings without comment in the schools. Many states had allowed the recitation of nonsectarian prayers or Bible verses in public schools, as long as participation was not compelled.

Prayer in the schools was, in many cases, patterned closely on public prayer in other contexts. For example, in *Engel v. Vitale*, 370 U.S. 421, 422 (1962), the school prayer prepared by the New York State Board of Regents (the Regents' prayer) read:

> Almighty God, we acknowledge our dependence upon thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.

The Regents, in their brief to the Supreme Court as *amicus curiae*, noted that the exact words "Almighty God" were contained in 34 state constitutions, that every state constitution acknowledged dependence on God in some form, and that an acknowledgment or invocation of "blessings" was contained in 29 state constitutions. Thus, the recitation of the Regents' prayer in New York schools closely mirrored other official statements reflecting the nation's religious heritage.

III. THE RELIGION CLAUSES OF THE FIRST AMENDMENT AND PUBLIC PRAYER

The First Amendment to the Constitution, which was proposed by the First Congress in 1789, provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." In a 1947 decision, the Supreme Court construed the Establishment Clause to be applicable to the states through the Due Process Clause of the Fourteenth Amendment.

In concluding that the First Amendment forbids prayer in public schools, many courts and commentators have relied heavily upon James Madison's statement of his views on church and state in his *Memorial and Remonstrance Against Religious Assessment*. This document was written four years before the First Amendment was proposed, in opposition to a general tax for the support of religious education

Jefferson's assertion, made thirteen years after the Amendment was drafted, that the Establishment Clause was intended to erect "a wall of separation between church and State," although, as Justice Stewart has noted, that "phrase [is] nowhere to be found in the Constitution." Jefferson's statement, while a "powerful way of summarizing the effect of the First Amendment," was "clearly neither a complete statement nor a substitute for the words of the Amendment itself." Moreover, Jefferson's own subsequent writings, which reflect his belief that nonsectarian religious exercises should not be totally excluded from public education, belie the absolute effect which some have sought to give these words.

The Supreme Court, in holding prayer in public schools to be unconstitutional, embraced an absolutist interpretation of the First Amendment based on its reading of the historical context in which the Amendment was passed. The Court in *Engel v. Vitale*, 370 U.S. at 428-20 n. 11, relies on the interpretation of history contained in *Everson v. Board of Education*, 330 U.S. at 11-13 (opinion of the Court), and 33-42 (Rutledge, J. dissenting). Justice Rutledge said:

> No provision of the Constitution is more closely tied to or given content by its generating history than the religious clause of the First Amendment. . . . In the documents of the times, particularly of Madison, . . . is to be found irrefutable confirmation of the Amendment's sweeping content. . . . [Madison's] Remonstrance is at once the most concise and the most accurate statement of the views of the First Amendment's author concerning what is "an establishment of religion." . . [I]t behooves us in the dimming distance of time not to lose sight of what he and his co-workers had in mind when, by a single sweeping stroke of the pen, they forbade an establishment of religion and secured its free exercise.

Thus, it is appropriate to examine the record of the First Congress, which proposed the First Amendment, in order to determine what was intended, and whether Justice Rutledge's assessment is correct.

Because Madison introduced the First Amendment in Congress, the Court appears to assume that the final product reflects only his personal views. While the personal views of the sponsor of any legislation may be accorded deference in analyzing congressional intent, one cannot ignore the plain language that emerged and the contribution of other members of Congress to the legislation. Madison's proposal was substantially amended in committee before it was considered by the whole House. When House floor debate began the proposal read as follows: "No religion shall be established by law nor shall the equal rights of conscience be infringed."

This language prompted concern among some representatives that the amendment would prevent nondiscriminatory state aid to religion. One voiced a fear that such language "might be thought to have a tendency to abolish religion altogether." Another thought that it should read "no religious doctrine shall be established by law." Another agreed

> . . . that the words might be taken in such latitude as to be extremely hurtful to the cause of religion. . . . He hoped, therefore, the amendment would be made in such a way as to secure the rights of conscience, and a free exercise of the rights of religion, but not to patronize those who professed no religion at all.

Madison explained his position by saying that

> . . . he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. . . .
>
> Mr. Madison thought if the word "national" was inserted before religion, it would satisfy the minds of honorable gentlemen. He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform. He thought if the word "national" was introduced, it would point the amendment directly to the object it was intended to prevent.

These passages from the congresssional debates prove two points. First, the concern the Congress wished to address by the amendment was the fear that the federal government might establish a national church, use its influence to prefer certain sects over others, or require or compel persons to worship in a manner contrary to their conscience. Second, in addressing that concern, Congress did not want to act in a manner that would be harmful to religion generally or would defer to the small minority who held no religion.

The version approved by the House read, "Congress shall make no law establishing religion, or to prevent the free exercise thereof or to infringe the rights of conscience." The Senate specified more narrowly the scope of the clause: "Congress shall make no law establishing articles of faith, or a mode of worship, or prohibiting the free exercise of religion."

The final version of the First Amendment contained the language "respecting an establishment of religion." The Supreme Court has given the word "respecting" a broad interpretation. It has forbidden not only a direct establishment of religion but also any act accommodated or even tolerated by state auspices that might encourage religious faith. It is doubtful, however, that the Congress intended such results. Moreover, in view of the objections raised during the debates that the states should not be precluded from aiding religion, it is more likely that the final language was intended to prevent Congress from passing a law interfering with the existing state laws on the establishment of religion.

Prior to its decisions of the 1960's, the Supreme Court had recognized that the Establishment Clause was not intended to result in absolute separation:

> The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. That is the common sense of the matter. Otherwise the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly.

As stated by Justice Stewart, "as a matter of history and as a matter of the imperatives of our free society, . . . religion and government must necessarily interact in countless ways."

(b)

Thus, the foregoing discussion supports the conclusion that the First Amendment was not intended to preclude a reference to or reliance upon God by public officials in prayer, as distinguished from government "establishment" of a particular sect. This interpretation of the language of the First Amendment is further supported by the fact that the same Congress that passed the First Amendment also retained a chaplain and called for a day of prayer and thanksgiving to God.

IV. JUDICIAL RULINGS RESTRICTING SCHOOL PRAYER

In 1962 and 1963, the Supreme Court decided two cases that held it is an impermissible "establishment of religion" in violation of the First Amendment for a state to foster group prayer or Bible readings by students in the public schools. In *Engel v. Vitale*, 370 U.S. 421 (1962), the Supreme Court forbade the recitation of the New York State Regents' prayer in New York public schools. The Court ruled that "government in this country, be it state or federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity." Although it was clear that students were not required to participate in the prayer, the Court appeared to adopt a theory of implied coercion: "When the power, prestige and financial support of the government is placed behind a particular religious belief, the coercive pressure upon religious minorities to conform to the officially approved religion is plain."

One year later, in *Abington School District v. Schempp*, 374 U.S. 203 (1963), the Court struck down a Pennsylvania law requiring that public schools begin each day with readings, without comment, from the Bible. Emphasizing the "complete and unequivocal" separation between church and state in its previous constructions of the First Amendment, the Court concluded that the purpose and primary effect of Pennsylvania's law was the advancement of religion in violation of the Establishment Clause.

In construing the Establishment Clause to require strict "neutrality" of the state toward religion, the Court has forbidden the government from placing any support "behind the tenets of one or of all orthodoxies." The Court also reaffirmed the rule that

> Neither [the states nor the federal government] can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in God as against those religions founded on different beliefs.

The prohibition against favoring religion as against non-believers or favoring theistic religions as against nontheistic religions would appear to preclude any action by the states or the federal government affirming a belief in God.

The Court in *Schempp* rejected the view that religious practices may be defended as being in aid of legitimate secular purposes, and concluded that the provisions to excuse students from participation also provided, under its view of the Establishment Clause, no defense. In short, any "religious exercises ... required by the States," even though "relatively minor encroachments" on the Court's concept of neutrality, are to be forbidden.

(71)

In the years following *Engel v. Vitale* and *Abington School District v. Schempp*, the courts have increasingly restricted the states from incorporating religious observances into the daily schedule of students in public schools. In one case, for example, a school principal's order forbidding kindergarten students from saying grace before meals on their own initiative was upheld. In another case, the recitation of a similar verse before meals, but without any reference to God, was held to be a prayer in violation of the Establishment Clause.

More recently, the Supreme Court affirmed a lower court decision striking down a school board policy of permitting students, upon request and with their parents' consent, to participate in a one-minute prayer or meditation at the start of the school day. The lower court found that the practice of permitting student and teacher prayers in the public schools was inconsistent with the "absolute governmental neutrality" demanded by the Supreme Court's interpretation of the First Amendment. The Supreme Court has also held that a state statute requiring the posting of the Ten Commandments on classroom walls in public schools was unconstitutional.

The principles established in *Engel v. Vitale* and *Abington School District v. Schempp* have been extended recently to bar the accommodation or even toleration of students' desire to pray on school property even outside regular class hours. In one case, a court held that a school system's decision to permit students to conduct voluntary meetings for "educational, religious, moral, or ethical purposes" on school property before or after class hours violated the Establishment Clause. Similarly, a state court forbade the reading of prayers from the Congressional Record in a high school gymnasium before the beginning of school. In another case, a school district's decision to allow student-initiated prayer at voluntary school assemblies that were not supervised by teachers was deemed a violation of the Establishment Clause. In each case, the court found no difference of constitutional dimension between the practice of permitting students to engage in individual or group prayer on public property and the active organization of prayer or readings from the Bible by school authorities, as in *Engel v. Vitale* and *Abington School District v. Schempp.*

Finally, with respect to prayer in public buildings other than schools, the Court of Appeals for the District of Columbia Circuit has ruled that atheists have standing to challenge the practice of the Senate and House of Representatives retaining Chaplains to open their sessions with a prayer, although the court has not yet decided whether the practice is unconstitutional. Another court has ruled unconstitutional a state legislature's practice of retaining any particular chaplain to open legislative sessions with prayer.

V. THE NEED FOR A CONSTITUTIONAL AMENDMENT

The Supreme Court's decisions that state-composed prayer and Bible reading constitute an "establishment" of religion do not give adequate regard to our religious heritage and misinterpret the historical background of the First Amendment. The Establishment Clause was not intended to prohibit governmental references to or affirmations of belief in God. As Justice Story concluded, "an attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation" at the time the First Amendment was drafted. Thus, the history of the Establishment Clause and Free Exercise Clause do not support the Supreme Court's conclusion that public prayer in schools is unconstitutional. As stated by Erwin N. Griswold, former Dean of Harvard Law School and former Solicitor General of the United States: "These are great provisions, of great sweep and basic importance. But to say that they require that all traces of religion be kept out of any sort of public activity is sheer invention."

Moreover, the courts have extended the principles of *Engel v. Vitale* and *Abington School District v. Schempp* to proscribe not only government-sponsored prayer, but also voluntary prayer initiated by students. By prohibiting students' voluntary prayers before meals, periods of meditation before class, and student prayer meetings in school buildings outside of class hours, the courts' concern with the Establishment Clause has overshadowed the First Amendment right of students to free exercise of religion. As Justice Stewart has stated, "there is involved in these cases a substantial free exercise claim on the part of those who affirmatively desire to have their children's school day open with the reading of passages from the Bible." Although it can be argued that those parents could send their children to private or parochial schools, the (a) Supreme Court has stated that "freedom of speech, freedom of the press, freedom of religion are available to all, not merely to those who can pay their own way."

(b) The unintended but inevitable result of current judicial interpretations of the Establishment Clause is not state neutrality but a complete exclusion of religion which, as Justice Stewart noted, is, in effect, state discouragement of religion:

> For a compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the estabishment of a religion of secularism, or at least as government support of the beliefs of those who think that religious exercises should be conducted only in private.

Commentators have noted that the government neutrality between theistic and non-theistic beliefs that the Supreme Court has sought to achieve is, indeed, unachievable:

> The fallacy of the Supreme Court's "neutrality" concept is that it is impossible for the government to maintain neutrality as between theistic and non-theistic religions without implicitly establishing an agnostic position. Agnosticism, however, is a non-theistic belief. The choice, then, is not, as the Court and its apologists have said, between "neutrality" and government encouragement of theism. The choice is between government encouragement of theism and government encouragement of agnosticism.

A constitutional amendment allowing school prayer is needed not only because it is consistent with and more accurately reflects the original intent of the First Amendment than the current judicial interpretations, but also because it would allow religious and educational decisions of essentially local concern to be made by states and localities rather than the federal judiciary. For over 170 years, school prayer issues were resolved at the state and local levels by the residents of the affected communities. Their choices regarding school prayer reflected the desires and beliefs of the parents and children who were directly and substantially affected.

Finally, and most importantly, this amendment is needed because the free expression of prayer is of such fundamental importance to our citizenry that it should not be proscribed from public places. Prayer in the public schools has long been considered a desirable and proper means of imparting constructive moral and social values to schoolchildren, while generally encouraging in them a practice of self-reflection and meditation. Conversely, the exclusion of prayer from the daily routine of students could convey the misguided message that religion is not of high importance in our society. A prayer such as the one struck down in *Engel v. Vitale*, for instance, was promoted by the New York State Regents to encourage children to take a moment to think of their blessings and the good fortune for which they should be thankful. Introducing children to such a practice can benefit the children and the public good.

VI. ANALYSIS OF THE PROPOSED AMENDMENT

The proposed constitutional amendment is essentially intended to restore the status quo with respect to the law governing prayer in public schools that existed before *Engel v. Vitale* and *Abington School District v. Schempp* were decided; i.e., when prayers such as the Regents' prayer and readings from the Bible without comment were not thought to be unconstitutional. However, the proposed amendment affirms the fundamental right of every person to reject any religious belief, as he or she deems fit, and not participate in the expression of any religious belief.

A. *Elimination of the Prohibition Against Prayer*

The proposed amendment provides that "Nothing in this Constitution shall be construed to prohibit individual or group prayer. . . ." This language is intended to overrule *Engel v. Vitale*, which forbade the reading of brief state-composed prayers, and *Abington School District v. Schempp*, which forbade readings from the Bible. the proposed amendment would, therefore, make clear that the Establishment Clause of the First Amendment could no longer be construed to prohibit the government's encouragement or facilitation of individual or group prayer in public schools, and that students should be allowed to participate in such prayer with the support of school authorities.

The language of the proposed amendment would also foreclose an argument that the Free Exercise Clause of the First Amendment could be construed to forbid group prayer. Thus, the amendment rejects the "implied coercion" theory advanced in *Engel v. Vitale*, 370 U.S. at 431, which presumes that any group prayer by consenting students has a coercive effect upon the objecting students in violation of their right to free exercise of religion, and that therefore no prayer is constitutionally permissible. However, as discussed below, the proposed amendment expressly protects the right of objecting students not to participate in prayer. This provision is sufficient to protect the rights of those who do not wish to participate without denying to all others who desire to pray an opportunity to do so.

B. *Availability of Prayer*

The intent of the proposed amendment is to leave the decisions regarding prayer to the state or local school authorities and to the individuals themselves, who may choose whether they wish to participate. The proposed amendment would not require school authorities to conduct or lead prayer, but would permit them to do so if desired. Group prayers could be led by teachers or students. Alternatively, if the school authorities decided not to conduct a group prayer, they would be free to accommodate the students' interest in individual or group prayer by permitting, for example, prayer meetings outside of class hours or student-initiated prayer at appropriate, nondisruptive times, such as a brief prayer at the start of class or grace before meals. School authorities could, of course, develop reasonable regulations governing the periods of prayer, in order to maintain proper school discipline.

The language of the proposed amendment would remove the prohibition on prayer imposed by judicial construction of the First Amendment, but is not intended to create a new, affirmative constitutional right to prayer. The source of a right to prayer is found in the First Amendment's guarantees of free exercise of religion and freedom of speech, although most courts considering the question have rather narrowly construed the Free Exercise Clause as applicable only in the case of an "inexorable conflict with deeply held religious beliefs." The proposed amendment would not, by its terms, alter past constructions of the Free Exercise Clause or the Free Speech Clause as a source of a right to prayer. Of course, to the extent that a right of prayer could be based on the Free Exercise Clause or the Free Speech Clause, the right would remain subject to reasonable state restrictions governing the time, place, and manner of its expression.

C. *Type of Prayer*

If school authorities choose to lead a group prayer, the selection of the particular prayer—subject of course to the right of those not wishing to participate not to do so—would be left to the judgment of local communities, based on a consideration of such factors as the desires of parents, students and teachers and other community interests consistent with applicable state law. The amendment does not limit the types of prayer that are constitutionally permissible and is not intended to afford a basis for intervention by federal courts to determine whether or not particular prayers are appropriate for individuals or groups to recite.

The proposed amendment also does not specifically limit prayer in public schools and other public institutions to "nondenominational prayer." A limitation to "nondenominational prayer" might well be construed by the federal courts to rule out virtually any prayer except one practically devoid of religious content. Because of the Supreme Court's current construction of the Establishment Clause, any reference to God or a Supreme Being could be viewed as "denominational" from the perspective of a non-theistic sect. Readings from the Bible and other identifiably Judeo-Christian sources similarly might be excluded as "denominational."

Moreover, a limitation to "nondenominational prayer" would not only preclude arguably sectarian prayer that may be promoted by the state but also would prevent individuals or groups, acting on their own and with no encouragement from the state, from participating in sectarian prayer in public places. The amendment is intended to enable the state to allow voluntary, privately-initiated prayer in public places, such as saying grace before meals or attending an informal prayer meeting before or after school. It would clearly be inappropriate to constitutionally limit such privately-initiated prayer to "nondenominational" expression.

The determination of the appropriate type of prayer is a decision which should properly be made by state and local authorities. That was indeed the practice throughout most of this nation's history. In fact, the long history of prayer in public schools has produced a considerable body of state court decisions, decided before *Engel v. Vitale* and *Abington School District v. Schempp*, which clarify the scope of permissible prayers under state law. Because the proposed amendment merely would remove the bar of the Establishment Clause as construed by the Supreme Court, state laws which prohibit or restrict sectarian instruction in public schools would not be affected. For example, a number of state courts construed state constitutions or laws to prohibit sectarian instruction but not to prohibit readings from the Bible without comment or other brief devotional exercises. In a few states, state courts ruled against prayer in public schools, and those decisions would not be affected by the proposed amendment. In other areas, the state and local authorities would be left to determine the appropriate rules for prayer in light of current conditions. Thus, the proposed amendment is not intended to establish a uniform national rule on prayer, but to allow the diversity of state and local approaches to manifest themselves free of federal constitutional constraints.

The national heritage of prayer in the public schools and elsewhere suggests the types of prayer that might be followed in particular areas. Prayers could be based upon established religious sources, such as the Bible, or could be suggested by school authorities in light of local circumstances. Examples of such prayers composed or selected by school officials are the Regents' prayer in *Engel v. Vitale*, and the fourth verse from "America," which was recited by New York City schoolchildren.

D. *Applicability of the Proposed Amendment*

The amendment by its terms would apply to prayer in "public schools or other public institutions." The intent of this language is to make the remedial provisions of this amendment coextensive with the reach of the First Amendment's Establishment Clause as construed by the Supreme Court. The prohibitions of the Establishment Clause do not forbid prayer in private schools or institutions, and so the present amendment need not address the issue.

Although most controversies relating to public prayer arise in the context of public schools, the proposed amendment is drafted to apply to prayer in other public institutions, including prayers in legislatures. In such public institutions, prayer could be permitted to the extent and under the conditions determined by the authorities in charge.

E. *No Person Can Be Required to Participate in Prayer*

The second sentence of the proposed amendment guarantees that no person shall be required to participate in prayer. This prohibition assures that the decision to participate in prayer in public schools and other public institutions will be made without compulsion. Those persons who do not wish to participate in prayer may sit quietly, occupy themselves with other matters, or leave the room. Reasonable accommodation of this right not to participate in prayer must be made by the school or other public authorities. Thus, the exercise of the right to refrain from participating cannot be penalized or burdened.

The proposed amendment does not refer to "voluntary" prayer, but incorporates the concept of voluntariness into the second sentence, which assures that students or others will not be required to participate in prayer if they do not wish to do so. One reason for this formulation is to make clear that the amendment rejects the "implied coercion" theory of *Engel v. Vitale*, 370 U.S. at 431. The term "voluntary prayer" might, moreover, be read to refer only to student-initiated prayer. The amendment is intended to include more than this. Public authorities should have the right to conduct public prayers for those who desire to participate, subject only to the express right of those who do not wish to participate not to do so.

The guarantee against required participation in prayer parallels and reaffirms the protection already afforded by the Free Exercise Clause of the First Amendment. It is intended to be analogous to the Supreme Court's decision in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), which held that students cannot be compelled to recite the Pledge of Allegiance. Thus, the second sentence of the proposed amendment assures that students and others will never have to make a forced choice between their religious beliefs and participation in a state-sponsored prayer. Indeed, the second sentence of the proposed amendment provides greater protection than the Free Exercise Clause, because a person desiring not to participate in prayer need not show a religious basis for his belief. Accordingly, there would be no need for an inquiry into the religious basis for a person's decision not to participate in prayer.

The fact that one or more students do not wish to participate in prayer, however, would not mean that none of the students would be allowed to pray. The provision forbidding required participation in prayer is intended to be sufficient to protect the interests of those students. As the Supreme Court stated in *West Virginia State Board of Education v. Barnette*, 319 U.S. at 630, with respect to the Pledge of Allegiance, "the refusal of these persons to participate in the ceremony does not interfere with or deny rights of others to do so." This would be the proper rule to apply with respect to school prayer: persons who do not wish to participate in prayer should be excused or may remain silent, but that should not interfere with or deny the rights of others who do wish to participate.

* * *

Reading 3: Robert Coles

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Still another statement in support of school prayer is from Robert Coles, an eminent scholar and social scientist who hardly could be classified with the conservative Religious Right. A political liberal, he bespeaks the strong sentiments of many Americans of main-line denominations and faiths.

* * *

"Harvard Diary: On School Prayer"

All during my school years, elementary and secondary, I remember those first minutes of the day, Monday through Friday from September to June: we arrive in the classroom, we sit down and are called to order, our teacher reads to us from the Bible, we pray, then we stand and salute the flag, and to it and our country pledge our allegiance. When my own children came of school age I was utterly amazed to learn that none of that routine was to be theirs. School prayers were not for the offspring of the liberal intelligentsia, nor saluting the flag. What if there were a child in the classroom who had his doubts about the existence of God? What if, indeed, his or her parents were convinced atheists, and have taught him or her a similar line of thinking? What about the First Amendment, and the Supreme Court's rulings?

As for the flag, when my children had started school the American flag, in one sad and thoroughly obnoxious display after another, was being dragged through the streets, spat upon, desecrated, mocked. Should children be "indoctrinated," I began to hear asked, in "vulgar nationalism" (one remark I heard in a New England town meeting in 1970), or in "chauvinism," another description I heard compared unfavorably to—well, "the philosophy of spaceship earth," which urges commitment to what the speaker called "a larger entity"? Only to such "entities" ought we "feel loyalty," he kept insisting.

At the time and later, I was more than a little perplexed by my own conflicts as to what and whom I should "feel loyalty." I had been much involved in the civil rights struggles of the early 1960s, and I had been saddened and angered by the way both Democrats and Republicans (Johnson and Nixon) were conducting our various adventures abroad, in Vietnam, Chile, the Philippines, and yes, Central America: a sad spectacle of collusion with awful, awful "principalities and powers," all in the name of an "anti-Communism" which itself helps maintain or generates corrupt statist oligarchies. Meanwhile, there is the horror of so-called "Communism"—the dictatorships that control Poland and Rumania and Czechoslovakia and, not least, Cuba; and of course, the horror of the murderous sponsor, the band in charge of the Kremlin. But as I come up with this recitation, I feel, yet again, a surge of gratitude for being an American—that I don't live in a totalitarian country, whether of the "Right" or the "Left," that even with the serious flaws in America's foreign policy, it is a country I can deeply love, and toward which I can "feel loyalty."

When I saw people in the "peace movement" desecrate the flag, call our leaders "fascist pigs," scream epithets at the country, I was disgusted—even as I kept noticing how mean-spirited, how lacking in "peace" some of those demonstrations were, and how arrogant and smug some of the upper-middle class protesters were about a "them," the poor, benighted working people of this country who still believed (so I heard it put, with sneers) in "Mother, God, Apple Pie, and the Flag." I love apple pie and love my mother; I was taught to respect the flag, feel great affection for my country (one form of affection, my parents taught me, is criticism); and last but not at all least, I happen to believe in God.

Why cannot my children say a prayer in school? Why cannot their teachers do so likewise? Would it really unsettle our Constitution, or some children whose parents don't believe in God, if others for a minute or two lowered their heads in silent acknowledgment of Him, or in explicit prayers to Him? All the time my children and I have to put up with the assaults upon our values, our beliefs, our sense of propriety or decency, and do so often enough in suffering silence—the price of living in a democracy, we're told by civil libertarians, some of them quite predictable in their wordy public posturing. But when it comes to children praying in school, a tradition in this country that goes back to the early days of the Republic, to the beginning of our schools, we hear of the potential jeopardy to ... whom?

The jeopardy to the "emotions" of the lonely dissenting child, I assume. (What about the "emotions" of thousands and thousands of children who want to pray but are told no?) The jeopardy, also, to people that would occur in a school district if a "fanatic" religion were to take over, insist upon using the classrooms to spread its interpretation of the Bible, and exclude recognition of all other kinds. To be sure, any halfway decent or honorable pedagogical principle, or custom, or practice, in and out of the classroom, can become corrupted, turned into an instrument of devilish, persecutory, self-righteousness. The history of Christianity—the schisms and sectarian struggles and terrible wars—offers proof enough of that danger. Yet, ought we allow the potential excesses this life offers us, with respect to any of our deeds, prevent us from going forth, taking life's risks, getting on with the business of living, part of which, for millions and millions of people, has involved the acknowledgment of Him—as the Declaration of Independence itself does when it refers to the Creator, and as our very currency does with the phrase "In God We Trust"? Will we soon have a case before the Supreme Court demanding that none of us be subject to the potential emotional stress (or personal affront) of using dollar bills that have the above-mentioned phrase printed on them?

As I hear (or in books, see) myself and some of my colleagues strutting about, playing God with others by the hour, demanding the faith of listeners or readers as we tell them this, insist upon that (and Lord save them if they don't embrace our theories speedily enough), I can't help but believe we wouldn't profit enormously from a few minutes a day of heads bowed, while we heed the words of Jeremiah and Isaiah and Amos and surely Ecclesiastes, or the Preacher, not to mention Jesus of Nazareth and His Disciples, each and every one of whom speaks to us in the Bible. We who preach without knowing or acknowledging it in this secular world—one self-confident, if not thoroughly haughty and presumptuous pronouncement after another—might well profit from a moment or longer of daily self-subjugation before the mysteries of this universe; profit from contemplation of the Holy Faith which over many centuries has been part of the life of so many nations and peoples, our own included.

Did not the very settlement of the country have to do, ironically, with the issue of religious faith—the rights of people to worship Him strongly, persistently, seriously. Oh, I'm sure dozens of constitutional theorists and political scientists may come at me as a result of the foregoing with cross looks on their faces and intimidating logic on their tongues and alarm in the tone of their speech. But I sorely regret the absence of school prayers in our schools, and I regret, too, that in many schools I've visited, all over this country, not only are prayers "out" (by law), but the salute to the flag has disappeared, too. For me that salute always conjures up Abraham Lincoln at Gettysburg, a private fantasy, I suppose; and the thought of prayers of children in school—why they conjure up memories of what a teacher used to tell us in the fifth grade, as we lowered our heads: "We have a chance now to be humble before God, and let's hurry and use that chance!"

Questions for Discussion

1. Recent studies of public education in the United States testify to a serious breakdown in the moral standards and behavior of students in our public schools. Do you think this is due to the constitutional rulings barring the expression of religion in the schools? Or is this the result of other forces and factors? What are they?

2. Does the absence of religious celebration exercises in the present policies and practices of public education have a neutral, negative, or positive effect in formulating the attitudes of children toward religion?

3. How best can the ethics of civility—the respect for persons and property—be nurtured and cultivated in public schools?

4. A year or two ago, Senator Jesse Helms introduced a bill (Senate Joint Resolution 179) to authorize and request the President "to designate a room in the White House to be used as a chapel, to be used by all White House personnel and by all incoming administrations." The chapel would be furnished by voluntary contributions. From your own persuasion as to proper church-state relations, would you vote for or against this resolution? If you vote "nay," how might you respond to supporters of the bill who would say, if we have chaplains to the Senate and House, then why not a chapel in the White House? If you vote "yea," what symbols would be suitable for the chapel? An altar? A Bible? A Cross? A Star of David?

Chapter Three

Chapter Three

The Champions of Separation

In Chapter Two, we heard the arguments of those who would honor the spiritual heritage of American democracy and who insist that this heritage should be passed on to the youth of America by allowing for prayer in our public schools as the expression of the "free exercise of religion."

But there are other voices no less concerned to keep strong the moral and spiritual fabric of American culture who would oppose the practice of prayer. They are the advocates of separation. They focus on the "disestablishment" clause of the First Amendment. Recalling the long history of religious persecution in our colonial period, such as when four Quakers were executed by hanging on the Boston Commons in the seventeenth century for their heretical beliefs, they espouse a careful *distancing* of church and state from each other by legal limitations and boundaries. This legal "distancing," conveyed by the symbol of the "wall of separation," is advocated as conducive to the good health of both church and state, since each is protected from undue control by the other, as John Bennett points up in Reading 4. The moral logic of both clauses of the First Amendment, therefore, is to assure that no one church body dominates political decision and public practice ("disestablishment"), and that minority religious groups and sects enjoy the right of the "free exercise" of their faith, for their consciences are free—since obliged to God alone—and therefore are not to be subjected to control by the State or by other religious bodies.

There are other cultural and pragmatic factors that strengthen the case of the advocates of separation. The America of 1985 is no longer a pan-Protestant culture. Public policy and law must take account of our religious pluralism. There is a great variety of religious denominations and sects, including some outside the Judeo-Christian heritage. And there are many people who claim no religious adherence or affiliation at all, at least in the conventional sense of the word "religious." Should not the rights of nonbelievers also be respected? True, North Carolina is much more religiously homogeneous than, say, Hawaii, where the children in a public school would be a mix of Oriental and Western faiths—of Buddhists and Christians, for example. But the flip generalization often heard, "In North Carolina there are more Baptists than people," does not hold up. What about the Black Muslims, the Baha'i faith, the Unification Church, or those who have no official religious affiliation at all? The present cultural situation makes it necessary to extend the idea of freedom *of* religion, as protected by the laws of the state, to include freedom *from* religion as well as to protect the freedoms of various organized traditional religious groups.

The problem of religion in public education is the most crucial arena where this issue is joined. The most fiercely debated aspect of this matter has to do with the legality of prayer in the public schools. Senate debate swirled around this issue in the spring of 1984. The evangelistic case for restoring prayer in the schools, as we saw in the previous chapter, deplores the breakdown of morality in public school life as the consequence of "taking God out of our public schools." The only way to restore decency and moral order in the behavior of school children would be to "put God back in." This can be achieved, it is claimed, by allowing prayer as part of the school's daily routine. But separationists, opposing the constitutional amendment, point up the difficulties. A prayer lasting thirty seconds at the beginning of the school day, or even a moment of silence, is hardly likely to produce a reformation in the moral behavior of the teenagers in the Junior High, any more than their salute of the flag will convert them to ardent patriotism. The opening prayer becomes a perfunctory gesture heavenward. It trivializes what should be a serious and private relationship of the human with the divine. If our legislators and other government leaders are such fervent advocates for the restoration of prayer to our common life, as Bill Moyers pointed out in his CBS news commentary on March 2, 1984, then why—when the issue was up for debate on the Senate floor—were there only four of the one hundred senators present for the opening prayer by the Senate chaplain? As Senator Danforth's editorial piece to the *Washington Post* proposes (Reading 5), ritualism such as the prayer amendment intends would trivialize the integrity of faith.

Moreover, according to the terms of the amendment, how can public prayer in the classroom be truly "voluntary"? Would it not have to be "prescribed" or, as the ACLU objects, "mandated"? Someone would have to frame the wording of the prayer and the children would be expected to bow their heads. This is the core of William Van Alstyne's testimony before the Senate's judiciary committee (Reading 6). To be sure, one provision of the original amendment would excuse any student who did not want to participate. But this seemingly benign proviso introduces a sly form of psychological peer-persecution. (Teacher: "Johnny, your parents have requested that you be excused from prayer, so you may step out in the hall while we have our prayer.") And what about the *content* of the spoken prayer? The Lord's Prayer would be offensive to Jewish children. If the prayer is so inclusive as to address God as Reality-in-General, God fades into an oblong blur. The New York State Regents' Prayer ("Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessing upon us, our parents, our teachers, and our country"), which was declared unconstitutional in the *Engel v. Vitale* decision (1962), was so inclusive as to be innocuous in import and meaning.

Finally, the evidence is at best dubious that an opening prayer or moment of silence or any other devotional exercise restores discipline and morality in the behavior of those in the public schools. Granted, there are serious disciplinary problems prevalent in secondary schools, especially those of the inner city—stealing, mugging, rape, plagiarism, the use of drugs, and the abuse of property and persons. But the corrective to this ailment is to be found through establishing a community of trust and accountability among students, faculty, and administrators, and through counseling programs with the students and their families. What has the most telling impact on the behavior of pupils is the behavior of the teachers: their fairness in discipline, their personal care and concern for the foibles of individual students, their integrity, and their fidelity to their teaching tasks. "More things are wrought by prayer than this world dreams of." No, in the traffic of common life in any schoolroom, public or private, more things are wrought by example than by prayer.

It is significant to note in passing that—whatever be the federal law of the land, or the separationist decisions of the Supreme Court—a survey in the state of North Carolina by an organization called People for the American Way shows the following findings: "Prayer is conducted at various times in thirty-one percent of North Carolina public schools.... In addition ... fifteen percent of the schools have teacher-led or principal-led 'silent meditation.'"[1]

Another point of debate, much less volatile, arose over the bill proposed by Senators Hatfield and Denton which would allow the use of public school facilities during "non-instructional" periods by student religious groups for meetings of whatever sort, as long as the activities in these meetings were "orderly" and not "unlawful." This certainly seemed a fair provision for the "free exercise of religion," since it would accord the same rights to a religious group as it would to a voluntary political action group or a group concerned about ecology or civil rights. Yet for strict separationists, such a provision as the Hatfield-Denton bill would set a perilous precedent and open a breach in the wall of separation. How would a public school official decide what was "orderly" and what was "disorderly" conduct? Should a Krishna cult or a "snake-handling" cult be allowed the same rights as the Newman Club at the University of North Carolina in Chapel Hill? A version of the Hatfield-Denton bill, the so-called "equal access" measure, finally passed both Houses of Congress and was signed into law by the President in the spring of 1984.

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[1] "Religion in North Carolina's Schools: The Hidden Reality," a Report by the North Carolina Project of People for the American Way, Winston-Salem North Carolina Project, September, 1983, p. 3.

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Reading 4: John C. Bennett

"Church and State in the United States" by John C. Bennett, from REFORMED FAITH AND POLITICS, edited by Ronald Stone. © 1983 by University Press of America, Inc. Reprinted by permission of the publishers.

Professor John C. Bennett, formerly Professor of Christian Ethics at Union Theological Seminary and also President of that institution, is one of the foremost authorities in America on church-state relations.

* * *

"Church and State in the United States"

It is hard for us in the United States to realize what a break with our European past the American doctrine, structures, and policies, in this connection were when the First Amendment to our constitution was adopted. It was even a break with the law and practice within several of our states which continued for several decades. It was not until this century that the First Amendment was applied to practices within the state; it applied originally only to the national state. Today in countries that have long had religious establishments there are strong movements in the direction our country chose.

There are fascinating survivals of the old religious establishments, but the movement away from them has come as an inevitable result of both religious pluralism and secularizing trends. One of the chief marks of the establishment in England has been the fact that the government has formally chosen bishops, deans, canons and even some professors of theology. Most often this has been a formality but there have been a few cases in this century in which choices were made that were objectionable to the Church of England. Now the church is seeking changes in the way such leaders are chosen. In 1927 the Parliament which regarded itself as a lay assembly of the church vetoed a revision of the Book of Common Prayer agreed on as a result of processes within the church. Ever since it has been assumed that if the Parliament were to take such an action again that would be the end of the establishment.

One example of the fascinating survivals was the recent royal wedding when for a few hours we saw the re-enactment of Christendom with all the symbols of a Christian nation. Obviously it would be impossible to have such an event in the United States and American Christians do not desire it. Another survival is the fact that in West Germany the state collects a tax for the churches. People can avoid the tax by formally leaving the churches but they are not inclined to do that in large numbers.

There are three essential grounds for believing in the separation of Church and State. The first is the need of religious institutions to be free from control by the state. The second is the need to protect citizens from interference with their religious liberty through the use of the power of the state by a church or group of religious institutions that seek to bring about discrimination in their favor. The third is that we have learned from experience that separation from the state is favorable to the health and vitality of churches.

1. Churches, if they are to be true to themselves, should demand freedom from control by the state. This means freedom for religious faith and worship and witness, including public worship and public witness. It means freedom of assembly and freedom for the ordering of the corporate life of the churches themselves. It means that they should have freedom to propagate their faith and the people should have freedom to change their religious commitments. It means freedom to act in accordance with religious beliefs and commitments.

In many countries when religious people take some of these forms of freedom they are persecuted, though often the acts for which believers are persecuted are called "political." This is true of nations on both the extreme right and the extreme left politically. Even in a nation as tolerant of diversity and dissent as ours, religious freedom can lead to conflicts with the state, and these conflicts require care and sensitivity on both sides. The acceptance by the state of the right of citizens to be conscientious objectors to military service is a good illustration of an *ad hoc* concordat between the state and many churches. This is still true because of the importance of the initiative of churches even though such conscientious objection is no longer limited to those cases for which there is either a churchly or a theological basis. An absolute moral commitment which can be translated into a religious commitment in terms of Tillich's understanding of religion as "ultimate concern" can be accepted legally as the basis for conscientious objection. Conflicts come over the right to object to particular wars and this may become more important since the Roman Catholic hierarchy has recognized the right of conscientious objection to "unjust wars" and this in principle would be selective objection.

There is no problem in this country now concerning freedom of religious teaching and witness, and the burden of proof is on any interference by the state with any action in accordance with religious belief in society. It is a very heavy burden of proof backed by the First Amendment.

That such religious freedom from any limitation by the state is not absolute is well illustrated by the terrible events in Jonestown. After those events it is easy to see there should have been protection of people against such exploitation and even lethal abuse by a religious leader, but it is not easy to say exactly at what point and by what method the state should have entered the picture. Today there is a great deal of debate as to how far the state should investigate the financial operations of a religious institution or community, and this issue is raised in the case of such organizations as the World Wide Church of God.

The state's enforcement of law within the life of the Church is accepted in some situations. When there is a split in a denomination the state has often acted to determine which group should own the property that is involved. Should dissenters who have controlled local church buildings be allowed to retain them when they vote by a large majority in particular units to separate themselves from the denominational body? In the past the courts have followed the law of the denomination concerning the ownership of local church property in line with the Supreme Court of *Watson and Jones* (1871). Recently there has been some confusion about this when general assumptions about ownership of property have been found to be unsupported by clear written legal provisions. The United Presbyterian Church has acted to clear up this matter.

Churches are not creatures of the state though they do live under the law of the state in external matters. The great word for Christians has been the declaration of the Apostles: "We must obey God rather than men" (Acts 5:29). The fact that this may mean disobedience to the state involving legal penalties does not alter what should be the general expectation that a just and healthy state should lean over backwards to expect the freedom of religious people and religious institutions to be true to themselves. One of the most important of the services of the Church to the state is to keep the state under independent criticism. The healthier the state, the more this will be welcomed as a contribution.

2. The second reason for welcoming and preserving the separation of Church and State is that it protects the state from ecclesiastical control and its citizens from the use of the power of the state by a Church or a group of churches to abridge their religious liberty.

Before the Second Vatican Council, when Church-State issues were discussed with most emotion, the concern that many Americans had was that the Catholic Church might use the state to discriminate against non-Catholics. One of the great Catholic social liberals who was active in the first half of this centry was Father John A. Ryan. He had much to do with the development of religious support for the New Deal in the 1930s. He wrote a book that appeared under more than one title (one title was *Catholic Principles of Politics*) which contained a paragraph that indicated that if Catholics were to become a significant majority they might use their power to limit to some extent the religious freedom of non-Catholics. Father Ryan did not like this possibility at all for it was against his liberal spirit. He assured the reader that it would never happen, that it was only a theoretical possibility. Non-Catholics did think that it might happen in a state with a large Catholic majority. I can remember that this paragraph was often cited as an illustration of the threat of Catholic power hanging over this country. Paul Blanshard in the 1940s and 1950s wrote books warning the country of the dangers of Catholic power.[1]

As recently as 1960 when John Kennedy was running for the presidency the relations between Catholics and many Protestants were ugly because of this fear. Many Protestants resisted this fear. In my home there is a picture on the wall of Reinhold Niebuhr and myself holding a press conference in our apartment in Union Seminary opposing the Protestants who were stirring up religious opposition to Kennedy. This fear has vanished as a serious concern of American non-Catholics. The experience of a Catholic president who proved to be independent of the hierarchy (he ran less risk of being called bigoted for opposing the hierarchy than a Baptist!) and the Declaration of the Vatican Council on Religious Freedom created a new situation. There was never any worry about the Catholicism of Eugene McCarthy, Robert Kennedy or Edmund Muskie.

The Vatican Declaration said the following: "This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that in matters religious no one is to be forced to act in a manner contrary to his own beliefs. Nor is anyone to be restrained from acting in accordance with his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits." That last phrase was merely a recognition of the fact that there are limits to forms of anti-social behavior which may be given religious justification and it has not been used by the Catholic Church as an escape clause. Quite the contrary, this Vatican Declaration has had a profound effect on the Catholic Church and on the attitudes of non-Catholics to it. It is well known that the Catholic Church is the greatest defender of human rights including religious freedom for Christians and non-Christians in many countries, especially in Latin America. No longer is it emphasized that error has no rights. Rather it is said that persons or consciences in error have rights. I wonder if the declaration of a Church Council of any kind has ever so soon changed the spirit and policies of a great Church or has had such beneficent effects on society.

The most debated question during the 1950s was whether or not public funds should be used to provide various kinds of services to parochial schools. The issue at stake in the minds of many was the religious freedom of non-Catholics who did not want to be taxed to support a Catholic religious program. Some marginal benefits such as transportation and some textbooks and health services were allowed, but the Supreme Court has been rigid in making impossible substantial contributions to the teaching of non-religious subjects in parochial schools.

3. The third reason why we should welcome the separation of Church and State is that it is favorable to the health and vitality of churches. It puts them in a situation that requires self-support. This in our country has given the laity a very important role and generally the churches have developed strength based upon lay initiative that is not found in the state churches. In this country the statistics concerning church attendance and concerning the amount of money raised for churches are remarkable. Many more people are present in our churches in proportion to the size of the population than is the case in nations with religious establishments.

In American history there was a very interesting episode in 1818 when in Connecticut the Congregational churches were disestablished. One of the great religious leaders of that time, Lyman Beecher, fought hard against disestablishment, but after he had been defeated he changed his mind. Professor Winthrop Hudson describes this change in these words: "He (Beecher) found himself forced to acknowledge that what he feared as the worst thing that could happen had turned out to be 'the best thing that ever happened in the State of Connecticut.' For, as he said, 'it cut the churches loose from dependence on state support' and 'threw them wholly on their own resources and God', there was created a moral coercion which makes men work."[2]

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[1] Especially Paul Blanchard, *American Freedom and Catholic Power* (Boston: Beacon Press, 1949).

[2] Winthrop S. Hudson, *The Great Tradition of the American Churches* (New York: Harper & Brothers, 1953).

The Catholic Church in the United States has been very dynamic and in many ways has flourished more than has been the case in official Catholic states. I wonder if this experience did not help to prepare the way for the Declaration concerning religious freedom.

* * *

Reading 5: Senator John C. Danforth

©The Washington Post. "Why Many Religious People Oppose It: School Prayer" by Senator John C. Danforth, March 11, 1984.

Senator John C. Danforth, currently a Republican Senator from the state of Missouri, is a graduate of Yale Divinity School and an Episcopal priest. This article is adapted from a speech of Senator Danforth in the Senate on March 6, 1984.

"Why Many Religious People Oppose It [School Prayer]"

Religious passion runs so deep on the issue before the Senate that partisans both pro and con are tempted to claim that God is on their side. Constitutents have told me that they are praying that I will reach the right conclusion on amending the Constitution. I am deeply touched by these remarks. I have the highest regard for the faith and commitment of all who feel so passionately about school prayer. But, the debate on school prayer is not between the godly and the ungodly. For strongly held religious reasons, people have arrived at opposite conclusions on the pending amendment.

The other day members of the Senate received a letter written "to express vigorous opposition to proposed constitutional amendments" signed by representatives of the following religious organizations: American Baptist Churches in the U.S.A., American Jewish Committee, American Jewish Congress, Anti-Defamation League, Association of Evangelical Lutheran Churches, Baptist Joint Committee on Public Affairs, B'nai B'rith Women, Church of the Brethren, The Episcopal Church, Friends Committee on National Legislation, Lutheran Church in America, Lutheran Council in the USA, National Council of Churches of Christ, National Council of Jewish Women, Presbyterian Church (USA), Progressive National Baptist Convention, Seventh Day Adventists, Union of American Hebrew Congregations, Unitarian Universalist Association of Churches in North America, United Church of Christ and United Methodist Church.

These are not agnostics or atheists opposing prayer. These are religious people expressing what they call "vigorous opposition" to a prayer amendment to the Constitution.

One might ask why anyone could feel strongly against a prayer amendment. A colleague once asked me, "What harm can it do?" Prayer can't hurt, it might be said; therefore, how can anyone object to it? I would like to answer these questions.

The Gospel read in the Episcopal Church on Ash Wednesday tells us a great deal about prayer. It begins at Matthew 6:1, part of the Sermon on the Mount. Christians are told by their Lord that when they pray, they are not to make a public display of it. They are not to stand in a public place so as to impress their neighbors. They are not to pray for the sake of public appearances, but to do the opposite.

For those who emphasize the private nature of prayer, involvement by the public sector in organizing religious observances is at variance with one's conscience. For example, in 1981 the North Carolina Baptist Convention said, "Prayer is a personal communication between an individual and God and does not depend on either the permission or sponsorship of government or its agents." Moreover, if prayer is personal, it is reasoned that no court-imposed restriction on religious observance in the classroom interferes in any sense with the true prayer life of students.

James Dunn, executive director of the Baptist Joint Committee on Public Affairs, has written, "Prayer is too sacred, too intimate, too personal to be prostituted by government involvement." The sacredness of prayer means that prayer is not mundane, not the offhand expression of passing fancy. Prayer is a relationship with the transcendent, the holy. It follows, then, that prayer should not be cheapened. It should not be trivialized. This is what James Dunn believes would happen simply by virtue of government involvement. But one need not go that far in order to fear the prostitution of prayer. It could be concluded that a classroom period of prayer for schoolchidren from diverse religious backgrounds might sooner inspire boredom, or even giggling, than reverence.

Opponents of a school prayer amendment might further argue that the sacredness of prayer and the holiness of God are debased by the often-heard statement that the Supreme Court has removed God from the classroom, and a constitutional amendment will put God back in the classroom. To many religious people, God is not dependent on the Supreme Court or Congress. Objects may be kept out of the classroom—chewing gum, for example. God is not chewing gum. He is the Creator of Heaven and Earth.

* * *

Advocates of school prayer seem to say that all prayer is good, regardless of its content, that all prayer is equally efficacious, that the fact of prayer is important, not the content. This point of view would be flatly rejected by religious opponents of the proposed amendment. To them, the content of prayer is of very great concern. The idea that any formulation devised by any teacher or student has an equal claim to be recognized as a suitable prayer is summarily dismissed.

Christians, told by Jesus that "whatever you ask in my name, I will do it" (John 14:13), take that instruction seriously. They conclude their prayers by saying, "In the name of Jesus" or "Through Jesus Christ." For Christians, that is the appropriate form of prayer. For Jews, it is not. A teacher, or a school district, or a student leading prayer must make a choice. Either a formula thought essential to Christians or contrary to Judaism is or is not included in the prayer. And there are a great number of Christians and Jews who would insist that whether the name of Jesus is included or excluded in a prayer is crucially important.

To members of liturgical churches—that is, churches that pray from a book—the words chosen for a prayer receive painstaking attention. Proposals to change familiar wording are heatedly debated. Anyone who doubts this should refer to the intense controversy still raging in the Episcopal and Roman Catholic churches on liturgical reform. To these denominations, the content of prayer is of deep, even divisive concern.

What's more, members of liturgical denominations, if asked to pray in school or some other public place, would more than likely reach for their prayer books. It would be an interesting exercise to comb through the hundreds of prayers contained in the "Book of Common Prayer" with the view to finding any that would be suitable in an interfaith setting. Prayer, for many religious people, is by its nature related to the doctrinal beliefs of the denomination. As Edwin X. Travers, a Catholic school teacher in Maryland has written, "Any prayer in our schools that offends no one will be no prayer at all."

Because many religious people are intensely interested in the content of prayer and are unwilling to concede that one prayer is as good as any other, they are anxious that they retain control of their children's religious training. Parents can determine the churches their children attend. Parents can guide religious education within the home. But many parents have no practical alternative to sending their children to public schools and no control whatever over the identity or religious beliefs of their children's teachers.

Today, a Protestant parent can insist that a Catholic teacher refrain from suggesting a voluntary recitation of the rosary. No longer, if we adopt this amendment. If followers of the Rev. Moon were to move from the airport to the classroom, parents can insist that they not participate in any religious observance. No longer, if we adopt this amendment.

I do not argue for one religious position or another. All I want to point out is that within America there are at least two positions on school prayer that are strongly held by very religious people. Some devout people, acting out their faith, ask us to amend the Constitution to permit prayer in public school. Other people, equally devout, ask us not to amend the Constitution.

My own view is that in this case the best course for the Senate to follow is to do nothing. To allow a child to pursue his own religious life without the structure of school-sponsored observances is as close to neutrality as we can come. To take the affirmative step of amending the Constitution is to decide that now is the time to foster one religious position against another. We are asked to permit in public schools religious observances that are desirable to some and offensive to others. To vote for this amendment is to vote for the establishment of religion. That is a step we should not take.

Reading 6: William W. Van Alystyne

Professor William W. Van Alstyne of the Duke University Law School is an expert on constitutional law. He testified on S.J. Res. 199, the School Prayer Amendment, before the Committee on the Judiciary, United States Senate, September 16, 1982.

* * *

From the "Prepared Testimony"

The proposed amendment to our Constitution reads as follows:

> Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer.

Accompanying the proposed amendment is a thirty-four page explanation, captioned "Analysis," as part of the President's submission of May 17, 1982. The Analysis makes clear that the following consequences are contemplated under the proposed amendment:

1. "Individual or group prayer" is inclusive of denominational and sectarian prayer (and denominational and sectarian scriptural, devotional recitation) incorporating the religious beliefs of one sect in preference to other sets of religious belief.

2. Such prayers may be composed under governmental auspices and may be enacted for exclusive use as prescribed by government.

3. Such government-composed, sectarian religious exercises may be prescribed for use in any public institution including, but not limited to, schools (at which attendance is compulsory), legislative assemblies, courts, public offices, and any other public facility operated under governmental auspices.

4. The determination of the content and requirement of such prayer is to be a function of that level of government otherwise having legislative power to prescribe the conditions of operation for the public school or other public institution.

5. A person shall be deemed as not being "required" to participate assuming only that no penalty as a matter of official sanction is attached insofar as, during the performance of the government-prescribed, sectarian religious devotional exercise, they merely "sit quietly, occupy themselves with other matters, or leave the room."

6. Prior interpretations of the First Amendment by the Supreme Court are no longer to apply; neither the First Amendment nor any other part of the Constitution is hereafter to be construed as restraining any acts or involvement of government in the arrangements made according to the scope of this amendment as described above.

My misgivings about this proposed amendment can be summarized as follows:

1. The amendment will abandon the existing constitutional protection from sectarian conflict by providing political incentives for competing religions to establish their theology to the exclusion of others in our public institutions.

2. The amendment will encourage the establishment of a dominant religious creed at the national level under official government sponsorship, establishing a particular religion as *the* religion of the United States; and it will encourage the establishment of other religions as the official religion of each state and community in which a sufficient majority or coalition exists to secure the enactment of that religion under law.

3. The amendment will encourage the behavioral conditioning of captive audiences by the technique of ritual, repetitive, group recitation of dominant sectarian theology, under controlled circumstances of compulsory attendance of the young, reinforced by official government sanction, the regular use of government premises, the regular involvement of government-employed figures of authority, and implicit disapproval of nonconforming beliefs.

4. The amendment invites political and religious conflict between *local* majorities that may enact religious rituals in local public institutions offensive to the sectarian preferences of *different* majorities controlling in legislative bodies having the power to supplant the locally dominant religion with a state-dominant religion.

5. The amendment may (and probably would) enable Congress to influence both (a) whether a state or local government shall provide for religious ritual, and (b) the acceptable character of such religious ritual that a state or local government must accommodate, by utilizing its combined powers of taxation and of spending to condition the availability of federal largesse upon the willingness of state and local governments to provide for that minimum of "voluntary prayer" as the national government otherwise resolves to provide in its own facilities.

6. The amendment embraces a constitutional theory of religious combination with government power that may necessarily affect Supreme Court interpretations of the First Amendment in matters *additional* to prayer and scriptural recitations in public institutions. That is, its open departure from a minimum theory of "neutrality" at least among all "religions" creates an intolerable inconsistency with current First Amendment doctrine in general.

7. The amendment is compromising to the privacy and intensity of diverse religious creeds within the United States by subjecting each religion to the political imperative of compromising its own integrity as a necessary concession to secure government support.

8. The amendment would install in our Constitution the principle of theocracy, that is, the theory that it is appropriate for governments to determine the theological foundation of the nation state and to incorporate that theology among its governing powers.

Reading 7: William W. Finlator

Protesting against the "equal access" bill introduced by Senators Hatfield and Denton, Rev. William W. Finlator made the following statement on behalf of the American Civil Liberties Union in hearings before the Committee on the Judiciary, U.S. Senate, on April 28, 1983.

* * *

I am W.W. Finlator of Raleigh, North Carolina, and serve as a member of the National Board of Directors of the ACLU and as one of its vice-presidents. I am also a Baptist preacher who for more than forty years has been the minister of Southern Baptist churches in North Carolina. I am pleased to observe in passing that my Baptist heritage of free conscience, free speech and assembly, uncoerced faith and practice, and church-state separation re-enforce my commitment to those same principles in which the ACLU lives and breathes and has its being.

Let me say at the outset that we in the ACLU honor Senator Hatfield for this strong and consistent witness for religious freedom, and even in the proposed legislation, which we feel compelled to oppose, we are aware of his personal desire for justice and equity that are not violative of the First Amendment. But because of widespread and continuing efforts to evade the Establishment clause in public schools and because of the vulnerability of students to official and unofficial attempts to promote student religious activities, the ACLU regards virtually all so-called non-government-sponsored religious activities in public schools as so suspect as to cause us to oppose them as manifestly unconstitutional.

The ACLU–I tell you this as a Christian minister as well as a member of the Union–is not anti-religious, but pro-Constitutional. From this perspective alone we view the proposed legislation as creating constitutional problems similar to those raised by tuition tax credits, the teaching of scientific creationism, and the reading of the Bible for devotional purposes in the public schools. But with this difference: the Hatfield Bill seeks to circumvent the constitutional principle that has frustrated these issues.

Let us take a closer look at S. 815. From a cursory reading it looks harmless and fair enough, but upon careful perusal it takes on disturbing implications. The very fact that Congress should even contemplate such a bill with regard to religious worship, in light of the opening words of the First Amendment ("Congress shall make no law respecting an establishment of religion"), ought to stab us all broad awake!

If it is countered that there is also the Free Exercise Clause in the same amendment and that religious activities ought therefore to enjoy the same privilege as secular activities during "non-instructional periods," we remind the Committee that the Constitution contains no prohibition against official support for cultural, political or non-economic activities–only religious ones. We further remind the Committee in these religious concerns that we are dealing with public schools where heat and light and furniture are provided at public expense and to which students by the tens of millions are bussed at public expense and in which the students are present through compulsory attendance.

Let us go a step further. The Hatfield Bill refered to discrimination against any meeting of students "on basis of the religious content of the speech at such meeting." Again, on the surface this looks harmless and fair. Who wants a principal to monitor the meetings and to seize upon the first mention of God or quotation from Scripture to invoke censorship? But please look long and steady at that phrase, "religious content of the speech." This is an omnibus phrase. Under its rubric can be included prayer, long or short; the reading and systematic study of the Bible; sermons on the Bible, the Apostles' Creed or other affirmations of faith; and the singing of hymns–in short, the paraphernalia of worship. And the Hatfield Bill makes it "unlawful" to interfere.

But perhaps school officials would not be totally without authority. The proposed bill provides that the religious activities shall be not only voluntary but also *orderly*. Now somebody has to decide upon and enforce this orderliness. Since all religious expression is not always conducted "in decency and in order"–say, for example, glossolalia, or speaking in tongues, and Pentecostal shouting and dancing before the Lord–somebody may have to crack down with the determination that this sort of thing cannot go on. In other words, we shall have the government making a determination regarding *religio licita* and *religio illicita*. That was not what the Founding Fathers had in mind when they wrote the Free Exercise Clause of the First Amendment.

And a final word. The Hatfield Bill provides that "no activity which is in and of itself unlawful is permitted." I can assure the committee as a clergyman that we are headed for a stormy confrontation with the religious community who read in their Bible that there are times when we must obey God and not man and that friendship with the world is often enmity against God and that principalities and powers must be opposed in the name of faith. What would the school authorities do, for example, when some of the "religious activities" advocated conscientious objection to draft registration on religious grounds? We shudder to think of what happens to "free exercise" under these circumstances. The public schools are simply no place for it.

With this kind of mischief and dissension and strife before us, we of the ACLU urge the Judiciary Committee to follow the wise counsel of our Jeffersons and Madisons nearly two centuries ago and to avoid enacting any law that entangles the government in religion. No one believes more deeply than I do in the right to exercise one's religion freely. If we temper that freedom with any form of government sponsorship or encouragement, we will risk losing the very liberty on which our country was founded and which makes it the greatest nation on earth for the flourishing of religious belief.

Reading 8: *Abington Township v. Schempp* (1963)

A landmark decision of the Supreme Court was the *Abington Township v. Schempp* case (1963), which ruled unconstitutional the practice in a certain Pennsylvania school district where verses from the Holy Bible were read and the Lord's Prayer recited as a prescribed part of the opening of the day's session. The majority decision of the Court, as stated by Justice Clark, establishes a cautious and delicate balance between the two clauses of the First Amendment, a position which has been aptly called "benevolent neutrality" and which has set the precedent for subsequent major decisions, as in the *Walz* and *Kurtzman* cases. According to this position, there are three "litmus" tests to be applied to any government program or statute pertaining to public education: (1) the statute must have a secular legislative purpose; (2) its principal or primary effect must be one that neither advances nor inhibits religion; and (3) the statute must not foster an excessive government entanglement with religion.

Excerpts from the Schempp decision

It is true that religion has been closely identified with our history and government. As we said in *Engel v. Vitale*, "The history of man is inseparable from the history of religion. And . . . since the beginning of that history many people have devoutly believed that 'More things are wrought by prayer than this world dreams of.'" In *Zorach v. Clauson* we gave specific recognition to the proposition that "[w]e are a religious people whose institutions presuppose a Supreme Being." The fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself. This background is evidenced today in our public life through the continuance in our oaths of office from the Presidency to the Alderman of the final supplication, "So help me God." Likewise each House of the Congress provides through its Chaplain an opening prayer, and the sessions of this Court are declared open by the crier in a short ceremony, the final phrase of which invokes the grace of God. Again, there are such manifestations in our military forces, where those of our citizens who are under the restrictions of military service wish to engage in voluntary worship. Indeed, only last year an official survey of the country indicated that 64% of our people have church membership, while less than 3% profess no religion whatever. It can be truly said, therefore, that today, as in the beginning, our national life reflects a religious people who, in the words of Madison, are "earnestly praying, as . . . in duty bound, that the Supreme Lawgiver of the Universe . . . guide them into every measure which may be worthy of his [blessing. . . .]" (Memorial and Remonstrance Against Religious Assessments).

This is not to say, however, that religion has been so identified with our history and government that religious freedom is not likewise as strongly imbedded in our public and private life. Nothing but the most telling of personal experiences in religious persecution suffered by our forebears, could have planted our belief in liberty of religious opinion any more deeply in our heritage. It is true that this liberty frequently was not realized by the colonists, but this is readily accountable by their close ties to the Mother Country. However, the views of Madison and Jefferson, preceded by Roger Williams, came to be incorporated not only in the Federal Constitution but likewise in those of most of our States. This freedom to worship was indispensable in a country whose people came from the four quarters of the earth and brought with them a diversity of religious opinion. Today authorities list 83 separate religious bodies, each with membership exceeding 50,000, existing among our people, as well as innumerable smaller groups. . . .

The wholesome "neutrality" of which this Court's cases speak thus stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenets of one or of all orthodoxies. This the Establishment Clause prohibits. And a further reason for neutrality is found in the Free Exercise Clause, which recognizes the value of religious training, teaching and observance and, more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the state. This the Free Exercise Clause guarantees. Thus, as we have seen, the two clauses may overlap. As we have indicated, the Establishment Clause has been directly considered by this Court eight times in the past score of years and, with only one Justice dissenting on the point, it has consistently held that the clause withdrew all legislative power respecting religious belief or the expression thereof. The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. The Free Exercise Clause likewise considered many times here, withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure religious liberty in the individual by prohibiting any invasions thereof by civil authority. Hence it is necessary in a free exercise case for one to show the coercive effect of the enactment as it operates against him in the practice of his religion. The distinction between the two clauses is apparent—a violation of the Free Exercise Clause is predicated on coercion while the Establishment Clause violation need not be so attended.

Applying the Establishment Clause principles to the cases at bar we find that the States are requiring the selection and reading at the opening of the school day of verses from the Holy Bible and the recitation of the Lord's Prayer by the students in unison. These exercises are prescribed as part of the curricular activities of students who are required by law to attend school. They are held in the school buildings under the supervision and with the participation of teachers employed in those schools. None of these factors, other than compulsory school attendance, was present in the program upheld in *Zorach v. Clauson*. The trial court in No. 142 has found that such an opening exercise is a religious ceremony and was intended by the State to be so. We agree with the trial court's finding as to the religious character of the exercises. Given that finding, the exercises and the law requiring them are in violation of the Establishment Clause.

. . . The State contends . . . that the program is an effort to extend its benefits to all public school children without regard to their religious belief. Included within its secular purposes, it says, are the promotion of moral values, the contradiction to the materialistic trends of our times, the perpetuation of our institutions and the teaching of literature. The case came up on demurrer, of course, to a petition which alleged that the uniform practice under the rule had been to read from the King James version of the Bible and that the exercise was sectarian. The short answer, therefore, is that the religious character of the exercise was admitted by the State. But even if its purpose is not strictly religious, it is sought to be accomplished through readings, without comment, from the Bible. Surely the place of the Bible as an instrument of religion cannot be gainsaid, and the State's recognition of the pervading religious character of the ceremony is evident from the rule's specific permission of the alternative use of the Catholic Douay version as well as the recent amendment permitting nonattendance at the exercises. None of these factors is consistent with the contention that the Bible is here used either as an instrument for nonreligious moral inspiration or as a reference for the teaching of secular subject.

The conclusion follows that in both cases the laws require religious exercises and such exercises are being conducted in direct violation of the rights of the appellees and petitioners. Nor are these required exercises mitigated by the fact that individual students may absent themselves upon a parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause. Further, it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, "it is proper to take alarm at the first experiment on our liberties."

It is insisted that unless these religious exercises are permitted a "religion of secularism" is established in the schools. We agree of course that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe." (*Zorach v. Clauson*) We do not agree, however, that this decision in any sense has that effect. In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment. But the exercises here do not fall into those categories. They are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion.

Finally, we cannot accept that the concept of neutrality, which does not permit a State to require a religious exercise even with the consent of the majority of those affected, collides with the majority's right to free exercise of religion. While the Free Exercise Clause clearly prohibits the use of state action to deny the rights of free exercise to *anyone*, it has never meant that a majority could use the machinery of the

State to practice its beliefs. Such a contention was effectively answered by Mr. Justice Jackson for the Court in *West Virginia Board of Education v. Barnette:*

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to ... freedom of worship ... and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment....

Questions for Discussion

1. Would you agree that a prescribed "voluntary" prayer at the opening of the public school day "trivializes" what should be a solemn and serious exercise of worship? If you agree, then does not the flag salute, by the same token, trivialize what should be a solemn patriotic pledge? Should that also be dropped?

2. Should the freedom *from* religion be accorded the same right as freedom *for* religion in the policies and practices of public schools regarding prayer, devotional exercises, etc.?

3. One "litmus test" of the Supreme Court is that "the principal or primary effect" of a statute or policy should neither *advance* nor *inhibit* religion. In short, neutrality. But if this neutrality means the omission of any religious exercise from school, is not the actual effect a negative one on the consciousness of the child, namely, that religion is of no significance?

4. In your experience as parents of children in public schools, what is your impression as to the impact of the presence of absence of prayer or religious exercises on your children?

Chapter Four

Chapter Four

Instruction vs. Evangelism in Teaching Religion

The intense debate in the Senate about a constitutional amendment allowing "voluntary" prayer in the public schools, which dominated the news briefly in the spring of 1984, touched a tender nerve in the body politic and provoked a strong emotional public response. The local newspapers in North Carolina received more "letters to the editor" on this question than on nuclear weaponry or the federal budget deficit. However, the "prayer" problem is really only the "tip of the iceberg." There are other more crucial issues under the tip, less visible perhaps, but much more significant than whether or not it is legal to start the school day with thirty seconds of spoken or silent prayer. One of these is: what is the proper place of religion in the *instructional* program of education at the primary, secondary, and higher levels of schools and colleges?

The answer to this question on the part of advocates of private and parochial education—those we heard in Chapter Two—comes clear and strong: to instill a religious faith is the essential purpose of education, for religion is "the sacred canopy" under which all of the disciplines of study—the natural sciences, social sciences, and humanities—properly belong. The nurture of reverence, of conscience, of moral sensibilities—all firmly founded in the Christian faith—is what should be at the heart of the educational enterprise. A purely "technical" education in skills is both inadequate to cope with the problems of our disintegrating culture, and indeed dangerous, for it puts our increasing technical power and know-how into the hands of moral morons who have slight vision of the "what-for" or the humane ends for which their technical means should be turned.

So, for many responsible parents, *private* Christian schools are the answer. But for *public* tax-supported education, the problem is made very complex. The *Schempp* decision of the Supreme Court delineates between the teaching *of* religion, in the sense of sectarian proselytizing, and the teaching *about* religion as an academic subject. The latter is constitutional; the former is not. Justice Brennan spoke for the majority decision:

> The holding of the Court today plainly does not foreclose teaching *about* the Holy Scriptures or about the differences between religious sects in literature or history. Indeed, whether or not the Bible is involved, it would be impossible to teach meaningfully many subjects in the social sciences or the humanities without some mention of religion. [1]

This argument is plain and convincing. The critical, objective teaching *about* the Bible as literature, or the impact of the faith of the Puritans in the colonial period of American history, or the religious influences on the framing of the Constitution or the Bill of Rights, or the division of the Christian churches in the South on the slavery question prior to the Civil War, or the "theological" problems in some of the masterpieces of literature (from Shakespeare and Milton to Solzhenitsyn), or the study of world religions (such as Buddhism, Hinduism, and native African animism) in international studies—these all are proper, indeed indispensable, to a curriculum in the humanities and social sciences. In theory, of course, these matters are to be treated with the same critical objectivity that a teacher would bring to *any* subject matter in the curriculum. A teacher in the Lakewood School, whatever her personal evangelical persuasion might be as a fundamentalist, should not be an evangelist, teaching the Bible as inerrant and infallible. A Roman Catholic teacher in a social studies course on Western history should deal with Luther and the Reformation "objectively." And the teaching of African religions, where trees and streams are regarded as sacred objects, should not convey the impression that this animism is "primitive" in a derogatory sense.

However, there is a sly and slippery problem here: the thin line between objective detachment and subjective commitment. Can the teaching of *any* subject, secular or religious, be entirely "wert-frei," or "value-free"? Even in the teaching of physics, the persuasion of the professor about the validity or invalidity of Heisenberg's theory of indeterminacy or of Einstein's theory of relativity will appear. In social studies, economics, and politics, a valuational component in the assessment of Adam Smith, Keynes, and Marx with respect to their economic theories is inevitable. Can one retrace the story of race relations in American history prior to the Civil War and make no normative judgments about the good or evil nature of slavery? If one looks underneath the academic mantle of cool objectivity worn by law school professors, one often finds that they are devout positivists at heart and evangelists for the faith in their teaching. The same holds for instruction in religion. While there is indeed the value of critical appraisal and detachment from one's particular religious tradition, there is also inevitably a value-stance about the benefit or threat of a particular faith-system. Inevitably, there is a religious dimension involved in the teaching of any subject in the humanities; that is to say, there is a faith-premise underlying the value-system, whether implicitly or explicitly. Religious questions are unavoidable in serious teaching and learning. Authentic teaching is always done from the point of view of one's deepest commitments about what is true and good or what one regards as being "of ultimate concern."

For a teacher to observe this fine line, to seek objectivity and critical detachment and thereby prevent the class session from becoming an exercise in evangelism, and at the same time to acknowledge and confess one's own subjectivity, is no easy task. Perhaps it is easier to realize this aim at the college and university level, where students are more able to assess critically the differing faith-premises and value-systems, than it is in the primary and secondary schools, where students are more impressionable.[2]

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[1] Robert T. Miller and Ronald B. Flowers, *Toward Benevolent Neutrality: Church, State, and the Supreme Court* (Waco, Tex.: Baylor University Press, Markham Press, 1977), p. 370, quoting *Abington Township School District v. Schempp*, 374 U.S. 203, 300 (1963).

[2] The programs and curricula in religious studies at Wright State University and Florida State University do, however, provide excellent guidelines for handling this difficult problem. See PERSC Guidebook, *Questions and Answers*, Public Education Religion Studies (Dayton, Ohio 1974) and Spivey, Gaustad, and Allen, *Issues in Religion* Series (Reading, Mass., 1972).

* * *

Reading 9: Religious Values in Education

"God and Man in the Classroom" by Peter Huidekoper, Jr. *Newsweek*, 2 April 1984. © 1984 by Newsweek, Inc. All rights reserved. Reprinted by permission.

Peter Huidekoper, himself a public school teacher in Vermont, shows how religious questions are unavoidable in serious teaching and learning.

* * *

"God and Man in the Classroom"

School prayer is not the issue.

For those of us concerned about religion and our youth, about a reverence for God and with education, school prayer is not the issue.

It is back in the headlines, on the campaign trail, in the Congress—but it is a sideshow, and we should see it as such.

As one who has taught for six years, and as one of many teachers who hold a personal faith in God, my concern is not whether we allow 60 seconds of silence, contemplation or prayer; my concern is what sort of tolerance toward religion is allowed the other six hours of the school day.

My worry, and the fear held by many of us who consider God the source of life and of knowledge, is whether our obedience to the separation of church and state has not, in fact, created a gulf, a rift, far greater than was ever intended.

As a result of this pulling apart of church and state, of religion and education, teachers now feel inhibited from even thinking and talking and wondering aloud about religious concerns and Biblical ideas and God in the classroom. We must act as if such discussion is absolutely—and defiantly—none of our business.

It is not a moment of silence, then, that concerns us most. It is a whole school day of silence about God, and attitude that restricts and endangers truly free inquiry and open discussion about matters if they happen to take on a religious nature. It is this silence, this attitude, that concerns us very deeply.

Not that God has been expelled from school, or the curriculum, as President Reagan suggests. High-school classes discussing *The Scarlet Letter* or *Lord of the Flies*, the poetry of Donne or Eliot, the role of religion in the Renaissance and the Reformation or the discoveries of Galileo and Darwin will almost automatically explore the issue of an individual or a society's belief in God and sin or God and evil—or salvation, or the universe or the creation. Any teacher worth his salt will make the most of such moments to encourage a thoughtful look at the facts and the beliefs of the religious traditions that have shaped our Western civilization.

Nevertheless, these moments seem few and far between. I think I speak for many teachers when I confess that something—be it the state or society or our own fears, our own embarrassment about discussing religion in front of our classes and the embarrassment, too, of our students—interferes with the freedom to reflect on and wonder about religious beliefs in the classroom. Something interferes with a general willingness to consider whether God might exist and whether his being might not have some correlation to the work we are studying: be it astronomy and our place in the universe or biology and our place in the animal kingdom; be it 20th-century despair, the loss of faith, and totalitarianism—or the Holocaust and the problem of evil; be it the tragedy of *Hamlet* or the physical and spiritual trials of Holden Caulfield.

What we as teachers often forget to realize is that in taking this vow of silence, in promising never to speak of God, we are not simply hiding our faith under a bushel but we are denying our intellect as well. Believers and nonbelievers alike know that to really think an idea through often leads to that complex, provocative and, unfortunately, in our public schools, apparently suspect and dangerous dimension—to issues of "ultimate concern," to use Paul Tillich's phrase; to a debate about God and religion and values, to the meaning of life.

And yet our fears make us stop short.

We act as if we can honor the First Amendment—by pleading the Fifth.

But this is a cop-out.

The First Amendment is an essential guarantee of the separation of church and state. It insists that the state "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." To impose school prayers, to imply state beliefs, is to cross the line, and it is wrong.

But haven't we retreated too far in the other direction when as teachers we feel required to curb our instincts—which are in fact intellectually and professionally sound—to encourage our students to explore beliefs, concerns and meanings, from time to time, in the context of our religious traditions, and in the light of faith in a caring and personal God?

Is this really what our forefathers meant by separation of church and state? Would they have wanted to see God ignored in our schools, or in classes devoted to science, history, government, literature, ethics and philosophy where young minds develop their values and their understanding of life?

Are we, in fact, really practicing freedom of religion in our public schools when we cut off discussion about the whole range of philosophical/spiritual questions—and, possibly, answers—that might be of interest, and of help, to our young people?

To many of us, the answer is no. Our present philosophy, or paranoia about religion in the classroom appears to be a perversion of what was intended by the Bill of Rights.

This won't change with a moment of silence. This won't change while our society—our post-Christian society, as it is sometimes termed—continues to seem as indifferent to God and to spiritual values as we appear to be here late in the 20th century.

Nevertheless, teachers need not remain silent. We should bring the courage of our convictions and the full range of our intellectual curiosity to bear upon classroom discussion. We should challenge the agnostic assumptions that narrow the world view presented by our public schools much more severely than was ever intended by our Founding Fathers.

For as Hamlet told Horatio, we, too, must tell our schools—and our students—that "there are more things in heaven and earth ... than are dreamt of in your philosophy." We must return to a teacher's essential task: to stretch the imagination. And we must remember that we diminish the intellectual and spiritual growth of our students when we succumb to the current absurdity that simply to speak of God or religious values and beliefs is—Lord help us—against the law.

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Reading 10: Teaching Religion

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Dr. Philip Phenix was for many years Professor of Philosophy and Education at Teachers College, Columbia University. He is a renowned authority on the problems of church-state relations in education.

* * *

From "Religion and The Teacher"

Teaching Religion

Teaching becomes religious in an explicit and formal sense when instruction is given in the tenets of one of the organized faiths, when these beliefs are represented as the true ones, and when the students are expected to accept them as such. This goes far beyond teaching by bearing witness to one's own faith, either by one's life or by word. The teacher generally cannot and should not hide his personal commitments. But it is a different matter when the teacher assumes the task of inculcating a system of religious belief and practice in the students.

Instruction in a traditional religion is appropriate in a school operated under the auspices of an organized religious group. A major purpose of such a private school is usually to propagate the faith, and this can frequently be accomplished by formal religious instruction. Doctrinal teaching of this sort may also be given in public schools when there is an officially recognized or established religion. But in the United States, where the nation is committed to a policy of separation and impartiality with respect to organized religion, sectarian religious instruction is inadmissible.

Still, even in the case of the public schools, it is a question whether religious teaching of every sort can and should be excluded. It is easy enough to identify and eliminate actual doctrinal teaching, as, for example, of Christianity or Judaism. It is not so evident that the teaching of other less traditionally religious systems of belief can be avoided. The teacher not only has a faith of his own and for himself, but he also must have certain convictions which are fundamental to his teaching and which he consciously or unconsciously seeks to have his students accept. It is these most basic values, such as loyalty to the truth, willingness to modify established beliefs in the light of new evidence, and regard for individual worth, personal freedom, and responsibility, which the teacher feels obliged to implant in his students without any sense of violating the principles of religious freedom and church-state separation. In fact, these principles may be integral to the very faith which the teacher seeks to transmit.

From this vantage point, in every school, private or public, religion in the sense of ultimate concern may and must be taught. Teaching of religion in the conventional sense of traditional doctrine can be avoided in the public schools, but the more fundamental inculcation of governing convictions is an intrinsic feature of the educative process. It is accordingly of importance that the teacher become aware of the supreme values to which his teaching is in fact dedicated and that every possible resource for the constructive criticism and improvement of these ultimate beliefs be utilized.

Teaching About Religion

Instead of teaching religion the teacher may teach *about* religion. By this is meant a factual, intellectual, objective treatment of the subject of religion. The teacher in this approach does not recommend a faith to the students for acceptance. He merely helps them to understand the facts about religion as one significant component of the culture of mankind. Individuals and groups do have religious beliefs, engage in religious activities and establish institutions. It would seem feasible to teach these facts, dispassionately and without personal involvement, just as one would teach about economic systems, marriage customs, or political parties.

This teaching about religion is not, however, as simple and straightforward as it first appears. The difficulty lies in judging what the facts really are, which are the important ones, and what they mean. "Bare facts" do not exist. Every fact must be expressed in some conceptual framework, which presupposes an interpretive scheme. The "real truth" about religion or anything else depends upon the criteria of reality and truth employed. To be sure, there are facts such as religious census data on which everyone can agree. But convictions about the importance and implications of these data differ. For example, there would be little even preliminary agreement concerning the Protestant Reformation or the Crusades among those of the Protestant, Roman Catholic, and Muslim faiths.

It also can be argued that a religion looks different from outside the faith than from within, so that an objective discussion of "facts," even so far as this is possible, is never a treatment of the religion itself. According to this view, to present the externals of a religion is not to represent it in any sense as it truly is; one can only know it and communicate it from within.

There is the related practical objection to the so-called objective teaching about religion that parents and clergy may object strongly to having anyone outside the religious community itself give instruction in their faith, regardless of how factual the teaching is intended to be. Jewish parents do not want Christian teachers explaining Judaism to their children, Christian parents equally reject a Jewish teacher's handling of Christianity, and parents in both groups object to having their religion explained by one without any religious affiliation.

To these critical problems should be added the further one that few teachers have the requisite knowledge to deal with the facts of organized religion fairly and intelligently. The variations and intricacies of creed and rite are so great and the questions of interpretation so complex and confusing that it may seem appropriate only for those who have specialized in religious studies to try to teach about religion.

These difficulties with factual religious teaching are likely to be more serious in a public school, with different religious affiliations represented by the students and with policy controlled by a pluralist citizenry, than in a private school, and more especially in a church school, with a more uniform student population and policy-making constituency.

In spite of the difficulties, a strong case can still be made for teaching about religion, even in public schools. The most obvious point in its favor is the patent obligation of the teacher to do maximum justice to all important realities of culture. Religion has played a significant part—sometimes for good and at other times for ill—in civilization. The well-educated person may not remain in ignorance of these facts of civilization. Granted the complexity of religious history and thought, there is no excuse for not attempting a fair and balanced treatment of these topics. Other subjects, such as modern scientific discoveries and political or economic theories, are also difficult, frequently controversial, and susceptible of varying interpretations, yet they are ingredients in the cultural heritage, and few would deny the possibility and desirability of teaching about them.

The objection that a religion cannot be fairly presented by one outside the faith is also not decisive. The essence of human intelligence is to be able to transcend one's own individual standpoint and by the power of sympathetic imagination to enter the world of thought and feeling of other people. A good teacher has this capacity to an unusual degree. He can present various points of view to his students as vividly and persuasively as if they were his own. He may thus actually have the awareness and perspective which enable him to do better justice to these points of view than would be done by most insiders. Moreover, a good teacher also expects his students to read and to discuss, in this way affording greater balance, proportion, and independent judgment about the religions studied. As for the further objection that church members resent having their faith presented by teachers who do not share their beliefs, this is a practical political problem which must be met with tact, patience, and understanding, but also with the firm conviction that the teacher has a professional responsibility to present the truth as he sees it and that no group has the right or authority to reserve any domain of human experience as its own exclusive concern.

* * *

Religion as a Dimension of Other Studies

Another way in which religion may belong to the curriculum is as an implicit dimension in the several areas of study. This differs from the previously discussed incidental treatment of religion in not being concerned primarily with the cultural facts of organized religion but with the religious meaning inherent in the specialized pursuits of learning. For example, in the study of English literature it may prove necessary to deal objectively with the religious ideas of Milton or with the place of the Bible in Shakespeare, as cultural facts. But these religious aspects are different from the quality of spiritual outlook implicit in literary study. Milton and Shakespeare—or for that matter writers who make no explicit reference to religion—can be read with an eye for the revelation of meaning and truth at the deepest levels. One can discern in the great works of literature symbolic portrayals of the human situation in all its glory and tragedy. The written word may also be recognized as a great liberator of creative imagination and hence as a means of realizing spirituality and self-transcendence.

Or consider the study of mathematics. There is little of an explicitly religious nature which is relevant to the purposes of this discipline. It may be of passing interest to mention the religious character of the ancient Pythagorean brotherhood and to refer to sacred numbers in the symbolism of religion, but no such incidental facts about religion are necessary to the understanding of mathematics itself or even to becoming a well-educated person. But the nature of one's personal concern in engaging in mathematical activity is of great importance both in understanding the true nature of this discipline and in general educational development. For example, it makes a profound difference whether one regards mathematics as merely a tool to be employed for personal pleasure and advantage, or as an opportunity to pursue truth, to catch glimpses of rational perfection, and to enter imaginatively into the citadel of order and possibility. The latter alternatives represent mathematics studied in the light of its inherent religious dimensions rather than as a technical pursuit.

Every subject in the curriculum has its religious dimensions, because by definition of ultimacy there is no human activity which in principle lies outside the domain of ultimate concern. Each department of academic study reflects in its own way the spiritual situation of those who pursue it. History, language, the arts, natural and social science—all of the disciplines—manifest fundamental beliefs and values in characteristic ways. It is the function of a deeply religious approach to these studies to point to the possibilities of realizing ultimate meanings in them rather than remaining satisfied with a limited and conventional perspective.

The meaning of religion as a dimension in other studies cannot be stated briefly and precisely. Nor is there any simple formula which describes how to "make the curriculum religious" in this fundamental sense. The religious dimensions implicit in the various studies can only be understood as the teacher gains skill in interpreting any and every human enterprise in the light of convictions about importance, value, meaning, beginnings, ends, totality, and relationships. The one requirement is a mature and fundamentally religious outlook, which can become effective in any segment of the educator's work.

Religion as a dimension of studies is appropriate in the curriculum of all schools, public or private, at every level of instruction. The religious question in the fundamental sense is inescapable. All studies carry with them certain spiritual presuppositions. The educator's obligation is to examine and to improve the spiritual quality, and this constitutes an invitation to consider every subject in the curriculum from a religious perspective.

Finally, just as the study of religion as a separate organized discipline may make the incidental references to religion in other disciplines more relevant and authentic, so may it also contribute to a more adequate perception of the religious dimensions implicit in other studies. Hence the implicit concern for religion throughout the curriculum does not diminish but rather enhances the significance of the systematic study of religion as such. Each approach serves to enrich and confirm the other.

* * *

Reading 11: Religion in Public Schools

A Report by The Advisory Committee on Religious Studies to The North Carolina State Board of Education Policy Committee, Dr. P. Robinson, Chairman January 4, 1978.

In North Carolina there have been various advisory committees to the State Board of Education which have proposed guidelines not only on the question of teaching about religion but also on other matters where church and state may or may not properly cross over the border into the other's domain.

* * *

From "A Report . . . on Religious Studies"

I. *Background*

Although more than fourteen years have passed since the Supreme Court decision which defined the proper place of religion in the public schools, the ambiguity which resulted has relegated religion and moral education to an uncertain if not negative status in the curriculum. While a number of the proposed guidelines relate to impermissible religious practices, the primary concern of the committee has been to clarify and support the positive and permissible inclusion of religion in this admittedly complex area of public education.

The American principle of Church-State neutrality prohibits the State, in any of its institutions or agencies, from helping or hindering religion. The legal basis of public school involvement in religion has been spelled out by the Supreme Court in several pivotal cases dealing with both worship and instruction in religion.

Sectarian teaching of religion (teaching, usually by ministers, to gain adherents to a sect) was held to be unconstitutional if taught on school property (*McCollum*, 1948) but permissible if students were "dismissed" to be taught on non-public premises (*Zorach*, 1952). Worship, in whatever form constitutes an unwarranted helping of religion, whether by reason of a state-composed, non-denominational prayer (*Engel*, 1962) or by means of classroom devotion involving Bible reading and a recitation of the Lord's Prayer (*Schempp*, 1963).

While the Supreme Court outlawed worship in the public schools because of the potential for sectarian divisiveness, it went out of its way to point out that the academic study of religion and moral values is not only permissible but also highly desirable. The public school is a community of learning; it is not a community of faith.

The primary value of teaching about religion in the public school lies in ensuring that the educational process will encompass all relevant aspects of human learning. To eliminate study about religion is to eliminate a creative force in civilization and in life. Its unimportance is assumed by its absence in the curriculum. Although funding for religious instruction has been limited, a viable educational system has always involved the weighing of competing claims on budget allocations and the establishment of priorities. A well-developed program of instruction involving academic study of religions will ultimately result in better informed students and an increased public confidence in public education as the way to provide an optimal educational opportunity for all students.

II. *Approaches to the Study of Religion and Moral Education*

There are various approaches to the academic study of religion, several of which are being pursued in limited ways in the public schools. The first approach is to provide units of material on religion within the stucture of existing courses. The study of biblical literature in an English course or the examination of religious topics in social studies courses are ways which are presently being effectively utilized. The interdisciplinary nature and intrinsic appeal of this method of teaching is commendable.

A second approach—offering separate elective courses such as Biblical Literature, Religious Issues in Contemporary Society, or World Religions—has been followed on a limited scale in some public school systems in North Carolina and other states. The obvious advantage of this approach would be the opportunity for more intensive study of religion.

A third method, not necessarily religious in nature, is known as moral education or values education. Here the primary focus is on ethical decision making, involving an analysis of the various factors involved in moral decisions.

Since there are distinct advantages in each of the above approaches, a program involving all of them has fruitful possibilities. The key to a constitutionally valid and academically respectable program of religious instruction is contained in the language of the *Schempp* decision. The study of the Bible or religion is valid, the Court held , "when presented objectively as part of a secular program of education."

Religious instruction, "as part of a secular program of education," is best pursued, both from a legal and academic standpoint, by staffing such programs with qualified teachers within the school system rather than relying on local ministers or laypersons representing the various faiths. The primary purpose of the minister and the certified teacher differs. Traditionally, the purpose of the former is to convert or to catechize, while that of the latter is to inform, produce awareness, and to present options.

III. *General Guidelines*

Courses. Elective courses in religion such as World Religions, History of Religion in the United States, and Biblical Literature are legally permissible and encouraged. Units or topics relating to religion in other courses should be discussed when germane to the subject matter.

Religion courses taught should be funded by the school budget.

These courses should be taught by certified teachers, trained to teach religion and sensitive to the demands for objectivity and aware of religious diversity.

Teachers. Teachers of these courses should be hired and be under the control of the local school board.

Teachers should conscientiously refrain from anything which may be seen as indoctrination or practice of religion. . . .

* * *

Reading 12: Bernard Cochran

Professor Bernard Cochran of the Religion Department at Meredith College has served as Chairman of the Advisory Committee to the North Carolina State Board of Education. He wrote this essay especially for *Church, State, and Education.*

* * *

"Religion and Education"

Even the most casual student of church-state relations is well aware that there exist few subjects more controversial and emotionally charged than the adjudication of the respective domains of God and Caesar. Father John Courtney Murray has concluded that, amid the flood of literature on this issue, "the number of bad philosophies in the matter is, like the scriptural number of fools, infinite."[1] Even the ablest constitutional experts and seasoned "Court Watchers" are sometimes astonished by the decisions of the Supreme Court.

The uncertainty surrounding the Court's decisions and the difficulty of predicting the resolution of litigation is especially true regarding religion and public education. In a lengthy concurring opinion in the *Schempp* decision, Mr. Justice Brennan observed that "the Court's historic duty to expound the meaning of the Constitution has encountered few issues more intricate or more demanding than that of the relationship between religion and the public schools."[2]

All that the Court was required to do in *Schempp* was to strike down the unconstitutional provisions of Bible reading and prayer as contained in the Pennsylvania and Maryland statutes. It is important to note, however, that the court went beyond the limited scope of its inquiry to address the question of the constitutionality of the academic study of religion in public education. The single most important holding in *Schempp* stated:

> In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and his-

> toric qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment. But the exercises here do not fall into those categories. They are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion.[1]

The language of *Schempp* clearly established for the first time the constitutional base on which the teaching of religion in state universities rests. Though there had long been departments of religion at such institutions—most notably at Iowa—their operations were characterized by constitutional uncertainty and questions of academic respectability. Some universities had established a joint philosophy and religion department, while others, like the University of Texas and the University of Tennessee, followed a type of "dismissed time" concept, with courses in religion being taught largely off-campus by local ministers, for which college credit was received. Since 1963 existing departments have flourished, while programs at other state universities have been inaugurated.

It is clear also that *Schempp* has given the green light to the academic study of religion in the public schools. The key phrase obviously is "when presented objectively as part of a secular program of education." Denominational or catechetical instruction, teaching to gain adherents to a sect, is plainly proscribed by this guideline.

In *McCollum v. Board of Education* (1948) the Court had disallowed the intermingling of secular and sectarian instruction, especially as it involved catechetical instruction on school property (released time). Such instruction was allowed off school property during school hours (dismissed time) in the *Zorach v. Clauson* (1952) case. In *Schempp* the Court distinguished between sectarian instruction and the study about religion. Teaching *about* religion is both permissible and desirable; teaching *for* religion is neither.

What has been the nature of developments concerning religion and the public schools since *Schempp?* First of all, it is safe to assume that superintendents of public instruction, the majority of the members of school boards, and the general public neither understand the language nor the limits of the *Schempp* or related decisions. Since this is so, the tendency for those charged with the responsibility for public education is to maintain as low a profile as possible. As long as there is relative religious homogeneity in the community, unconstitutional religious exercises and instruction which remain unchallenged will be allowed to continue.

As a result, although statistical evidence in this area is not readily available, the fact remains that, especially in the Bible Belt, practices ranging from devotional exercises to outright evangelistic chapel programs continue. Challenges by Jews, atheists, or informed Christians to Christmas or Easter observances in the schools would be met with either bewilderment or alarm. When a local minister volunteers his services and there is sentiment in the community for providing sectarian instruction or worship in the public school, principals are hard pressed to resist public pressure.

Current religious instruction in the public schools is taking place on a very modest scale. This is true regarding both course offerings in religion and the teaching of religion as a unit of existing courses. The preparation of the instructors is minimal and teaching materials, until recently, have been virtually nonexistent.

It would appear the public schools today stand at the same threshold that state universities did ten years ago—receptive to upgrading and expanding their instruction. That this has not been true has been due to a variety of factors, such as the uncertainty over just what the Court allowed and forbade, in the face of which many have done nothing. Funding has been a problem in this as in other areas. Faced with the cutback in funds, courses in art, music, dance and religion—the speciality or "fringe" courses—have been hardest hit. Pressures are currently being applied to provide new courses in other areas as well.

On a positive note, some significant developments have taken place recently. The PERSC (Public Education Religion Studies Center) has been established at Wright State University in Dayton, Ohio, on a grant from the Religious Heritage of America, Inc., and the Lilly Endowment Fund. Its purpose is to serve both as a repository for housing and disseminating materials and for the encouragement and facilitation of further programs of instruction in religion in the public schools.

An initial attempt to meet the need for teaching materials in the field resulted in a pilot project at Florida State University under the leadership of Robert Spivey and E.S. Gaustad. A four-part "Religion-Social Studies Curriculum Project" has been developed with booklets and accompanying films. The units include: (1) "The Supreme Court Speaks: Learning About Religion in the Public Schools," (2) "Learning About Religion in American History Courses," (3) "Learning About Religion in Social Issues Courses," and (4) "Learning About Religion in World Cultures Courses." This interdisciplinary approach was deliberately chosen, in part on philosophical grounds and in part for pragmatic reasons, overcoming inertia by working through existing structures. The problems of the partial infusion of religion and the limited preparation of the instructors involved are obvious. Similar curriculum materials projects have been initiated in Indiana, Pennsylvania, and elsewhere.

Although admittedly controversial, a number of religious educators have suggested a focus on moral education or values clarification. In *The School and Moral Development*, Barry Sugarman observes that

> [m]oral principles are based on values but involve a different sort of proposition. Whereas a value indicates that A is preferred to B, a moral principle indicates that one *ought* to strive for A, that this is an obligation on one who claims to accept this moral principle and that blame properly attaches to him if he fails to do so (allowing for extenuating circumstances).[4]

Determining the source and validity of the "oughtness" is the obvious problem to be solved.

Philip Phenix, a pioneering religious educator at Columbia, advocates a combination of both disciplinary and interdisciplinary approaches to the study of religion. In *Religious Concerns in Contemporary Education*, he concludes that

> just as the study of religion as a separate organized discipline may make the incidental references to religion in other disciplines more relevant and authentic, so may it also contribute to a more adequate perception of the religious dimensions implicit in other studies. Hence the implicit concern for religion throughout the curriculum does not diminish but rather enhances the significance of the systematic study of religion as such. Each approach serves to enrich and confirm the other.[5]

While this speaks well to a university situation, its applicability to a public school curriculum is fraught with difficulty.

The method of religious instruction adopted by the State of Virginia is modeled largely, if not totally, on the old "dismissed time" concept and is sponsored and funded by the Virginia Council of Churches and local Councils of Religious Education or churches. Students are dismissed from classes, largely grades 3-6, for religious instruction by teachers not required to possess a teaching certificate. Though declared constitutional (if the classes are held on non-public property) in *Zorach v. Clauson* (1952), this approach seems the least desirable from an educational or religious perspective.

Although few states certify religion teachers (most who do teach are certified in social studies or related disciplines), a number have begun a certification program, notably California, Wisconsin, Michigan, and Massachusetts. Master's degree programs in the academic study of religion are offered at Western Michigan, Wright State University, the Kansas School of Religion, and Harvard. Summer workshops in "Religion in Public Education" are offered in some areas for in-service training for teachers with varied backgrounds currently teaching such courses.

Curriculum materials are limited but are presently being developed primarily at the high school level. World religions materials have had the largest development and widest circulation.

To teach religion in the public schools raises a number of controversial, though not insurmountable, problems. To omit religion from the curriculum implies more about the lack of importance of religion as a human and educational concern than most informed persons are willing to accept.

A great deal of ambiguity exists with regard to the question of what we are attempting to teach when we teach religion. Is the primary concern to impart a body of knowledge, Biblical or otherwise, to focus on questions regarding ethical decision making, to acquaint students with other religions in a pluralistic society, or all of the above and more? If a model program were devised, would it involve the offering of such religion courses as Biblical Studies, Ethics, and World Religions, or should religion be taught within existing courses in an interdisciplinary framework?

How is it possible to comply with the Supreme Court's injunction that the teaching of religion in public education be "objective"? Can the teaching of Biblical Studies be pursued in a manner which is "fair" to members of fundamentalist sects? Are authoritarian denominations devalued if the "ideal" position regarding ethical decision making is portrayed as one which stresses independent thought and action? Should the instructor's own religious perspective be masked? While these methodological problems will always exist, fairness and objectivity in teaching are surely attainable goals. Controversies will arise. However, if the public schools eliminated all potentially controversial courses, the curriculum would be decimated. If objectivity in teaching and sensitivity to the denominationally diverse character of the class is possible at the college level, it would seem no less so at the secondary school level.

The area in which public school administrators appear most receptive is that involving the teaching of values. On the one hand, officials are aware that the image of the public school in the minds of many is that of a value-less or secularistic system, since it is assumed that legally they are prevented from being otherwise. On the other hand, there has been growing sentiment for some sort of voucher system on the part of those who desire freedom from the educational establishment to pursue innovative educational alternatives to the public school. Fearing a marriage between the proponents of vouchers and those who desire a more value-infused education, whether by means of Christian academies, parochial schools, or some other alternative, professional educators are taking a more serious look at value issues.

How to develop such a program is the obvious problem. Avoiding the civil religiosity of Americanism on the one hand and sectarian evangelism on the other is not an easy matter.

What is clear is that the opportunity for significant development in the academic study of religion in public education is unparalleled. The possibility exists for providing qualified teachers, and through workshops and training programs they can become even more so. The development of further interdisciplinary approaches as well as specialized courses in religion needs to be greatly increased. School boards at the local level have to be convinced of the educational validity of funding such projects—perhaps the most difficult part. Although infinitely more complicated, this method offers a far better approach to the inclusion of religion in *public* education.

In conclusion, one can only say:

The Supreme Court giveth:
"study of the Bible or of religion, when presented objectively as part of a secular program of education. . . ."
The Supreme Court taketh away:
unconstitutional sectarian and nonsectarian religious worship.
Blessed (or cursed?) be the name of the Court!

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[1] John Courtney Murray, S.J. "Law or Prepossessions?" *Law and Contemporary Problems* 14 (Winter 1949):23.

[2] *Abington Township School District v. Schempp*, 374 U.S. 203, 230 (1963).

[3] Ibid., at 225.

[4] Barry Sugarman, *The School and Moral Development* (New York: Barnes & Noble, 1973), p.38.

[5] Philip Phenix, *Religious Concerns in Contemporary Education* (New York: Bureau of Publications, Teachers College, Columbia University, 1959), p.75.

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Reading 13: J.E. Martin

Mr. Martin, currently Superintendent, Stanly County Board of Education, writes out of many years of experiences in wrestling with the problems raised by religion in the public schools. He prepared the following essay especially for *Church, State, and Education.*

* * *

"Religion and Public Education: Views of a School Administrator"

Most Americans will remember 1983 as the year of the reports on public education. The National Commission on Excellence in Education, created by the Secretary of Education, made the first and probably the most alarming report with its publication of *A Nation at Risk: The Imperative for Educational Reform*. During the year, at least thirty additional reports were published by nationally respected foundations, boards, and individuals, all drawing attention to problems in American schooling.

While the publication of these reports caused general focus on public education through reactions in the news media, each successive report tended to attract less attention than the previous ones. Consequently, the reports by People For the American Way on the issues of organized prayer and religious instruction and, later, on censorship in the public schools of North Carolina were publicized less than they might have been in other years. These issues are of more concern to public school officials and educators than this response might have indicated.

The reports by People For the American Way were based on a statewide survey of some 2500 educators. The principal conclusions of the reports were that significant problems exist in the public schools of North Carolina involving the protection of First Amendment rights for pupils and teachers.

The purpose of this paper is not to test through scientific research the validity of the conclusion reported above. It is, rather, to report some observations of the evolving relationship of religion with public education, which do lend a degree of credibility to the reports from a limited, personal perspective. A second purpose is to recommend some courses of action for public school officials and for citizens generally which could help mitigate the problems which can and do arise over the relationship.

Only during the past quarter century have most public school officials seen any implications for their performance in the constitutional doctrine of separation of church and state.

Landmark decisions by the United States Supreme Court in 1962 and 1963, however, called for significant changes in the way most schools functioned by declaring school-directed prayer and Bible reading to be violations of the First Amendment guarantees.

Before the decisions in *Vitale, Schempp,* and *Murray,* the popularly assigned and accepted role of the public school was that of serving as a basic foundation for both church and state. This role in North Carolina was based almost universally on the rule of tradition rather than on statutory mandate or official policy. Although the State Constitution refers to "religion and morality" as basic to the purposes of education, and although teachers in the public schools of the state are required by statute to "encourage temperance, morality, industry, and neatness" (among other duties), no specific religious activities were required in public schools by state authority at the time of the decisions.

Under the traditional rule, a number of activities which were more religious in nature than educational were conducted in schools in North Carolina. Each of these activities were struck down as illegal practices either by the Supreme Court decisions in the early 1960s or by related federal court decisions rendered during the ensuing twenty years.

The record of compliance by schools and school districts in North Carolina with the court-imposed law has been less than impressive. It would be reasonable to attempt to determine the cause for this resistance. One conclusion is that compliance has been, and remains, virtually voluntary. No sanctions are imposed by the federal government in cases of noncompliance. There have been no federal departmental regulations growing out of legislation following the decisions, as was true during the same period in the civil rights issue of school desegregation. School officials are guided in church-state decisions only by the knowledge that a precedent exists for the courts in subsequent similar cases and by their degree of conviction regarding their duty under such circumstances.

A second conclusion is that the decision either to comply with the law or to continue with tradition must be made by local officials who enjoy only the most minimal insulation from the criticism or retaliation from constituents who do not agree with the course taken. Following the publication of the first report by People For the American Way in September, 1983, the Attorney General of North Carolina emphasized that under the State Constitution and existing statutes, decisions regarding religion in the public schools were clearly to be made by the 143 local boards of education and that these decisions were to be implemented by the administrators and teachers of the state. It appears obvious that the various boards of education would come to grips with the issues of church-state relationship at varying times, if ever, and under a variety of circumstances.

A third and final conclusion regarding the issue of compliance is one of interpretation of the law handed down by the courts. Supreme Court decisions, decisions by federal courts of appeal, federal district court decisions, and even state court decisions can become difficult to interpret in light of local practices. Local boards of education, board attorneys, superintendents, and principals can often rationalize postponing any local activity until the law becomes more "settled." This action is particularly justified when subsequent decisions either modify what had appeared plainly evident in the original decision or reverse it totally. Many individuals of obvious wisdom and proven integrity peacefully disagree with the possibility of "religious neutrality" as proposed by Supreme Court decisions and see the Secular Society as one without religious purpose.

Because of the volatility of the issues involved in dealing with religious activities in schools, school officials often feel themselves required to take one of two equally uninviting positions, either that of self-proclaimed constitutional puritans (or atheists, to some) on the one hand, or that of fundamentalist, uncourageous, professional weaklings on the other. The fact that proponents of voluntary prayer in the schools, including the President of the United States and both United States Senators from North Carolina, support a constitutional amendment to provide new parameters for the major issue makes more necessary than ever some reliable guidance for elected school officials, administrators, and teachers which would provide some firmness of stand. This guidance must come in the form of clearly stated policies by local boards of education. These policies should be drawn in a climate of open, positive dialogue with all interested parties within the school administrative unit. Local boards should seek out expert legal counsel equal to the complexity of the issue. It is especially desirable that religious leaders in the community, including ministers and leaders of all religions and religious divisions, be included in the development of the policies. Finally, it is important that professional educators at all levels of employment be involved in the dialogue. Once a policy is agreed upon which will comply with the legal tests for fair and equal treatment of religion in the public school setting, teachers and principals will have the primary responsibility for ensuring that the intent of the community, within the law, is fulfilled.

Every area of concern about religion in the public schools could be addressed by reasonable policies, fair and professional implementation, and a rational approach to alternatives to any current activities of questionable legality. Following are activities reported by superintendents in North Carolina which have at times become issues involving some conflict, and which have been resolved by dealing openly with the issues and developing reasonable policies.

School-Directed Prayer and Bible Reading

Most administrative units have adopted board policies which disallow school-directed activities and assure students and teachers of their right to voluntary prayer or Bible study.

Most superintendents declare having had no recent problems in this area, but they also state that practices contrary to policy could occur in individual classrooms or schools without their knowledge. Suit was brought by a teacher in one unit on grounds that he was dismissed for raising questions about devotional exercises being conducted in schools where he was assigned. The case was settled out of court, but his contention was verified. No board-level policy against the practice had existed before the matter became a problem. The principal stated that he was aware of the Supreme Court rulings against school-sponsored prayer but that he felt that the entire community favored continuing the activity.

This is an area in which the law appears to be most settled. Policies should be clear in dealing with both official prohibitions and individual rights. School-level personnel should be involved in drafting policy and should be expected to implement the policies which are established.

Distribution of Religious Materials

While the law is quite settled on the fact that neither school employees nor others may distribute religious materials, some administrative units permit the distribution of Bibles (particularly by the Gideons) in the absence of a prohibiting policy. Others permit the placement of Bibles in the school to be picked up voluntarily by students. Most units prohibit both practices by policy. It would appear that this is an area where cooperation between religious and private organizations and institutions could achieve the desired goal of making Bibles available to all who wanted them by distribution through retail stores, banks, clubs, and churches. Schools could be utilized as a distribution point if an interested group were to obtain the use of the school, after regular hours, through the Community/School Program.

Curriculum and Materials

The most challenges regarding church-state separation in instructional programs tend to revolve around the problems of textbooks and other printed materials, courses in sex education, discussions of controversial issues, and the teaching of the theory of evolution. This is one area, however, where the state does provide some guidance. The State Textbook Commission selects all standardized texts to be used in the public schools, and procedures for challenges are provided by state statute. The State Department of Public Instruction also provides guidance in the selection of appropriate supplementary materials to be used along with textbooks in implementing the mandated statewide course of study. It is important that the guidance provided by the state be followed by local administrative units, that any variation in course content or materials be approved by the local board of education, and that a clear policy be adopted by the board to provide for the challenge of supplementary materials. Policies should ensure the rights of individuals to study controversial issues but should also provide parents the opportunity to participate with the teacher in determining if some materials are too mature for their children.

Superintendents state that problems in this area have either diminished or have become less traumatic with the development of clear policies and greater care in the selection of materials.

Holiday Programs and Observances

Some superintendents report this to be an area of growing concern but one in which the concern is more a question of the use of time than of religious activity. In some units parents and school employees alike have expressed concern about the amount of emphasis and teaching time given to the period from Thanksgiving through Christmas. A proper policy here may need to involve all of the commercial interests which both extend and intensify the importance of the season each year. Even though Christmas has come to be generally accepted in the schools as a traditional (rather than religious) holiday, any teacher or administrator who attempts to limit the activity conducted in celebration of it is sure to be classified as the Grinch who stole Christmas. This is more serious than it may appear, and careful policy development is required for the best possible outcome in a very emotional issue.

Most local units are changing the school calendar to provide winter and spring vacations, rather than Christmas and Easter Holidays. However, since the state holidays are set to include both Christmas and Easter Monday, this change is mostly semantic.

One issue that has proved to be particularly sensitive is that of teaching "about" Easter without being offensive to non-Christian students. It is desirable to involve the rabbi from a local synagogue in dealing with this matter realistically.

Commencement Exercises and Baccalaureate Services

Almost universally, superintendents report no problems in this area. While all school units do not have strict governing policies, principals have generally assumed the lead in making the graduation a school activity while encouraging baccalaureate services as a voluntary, church-sponsored, religious activity outside the school. Policies should address only school-sponsored activities.

Religious Clubs

Religious clubs basically grow out of two activities: (1) courses about religion which are offered by the school and (2) the Fellowship of Christian Athletes. Local policies should address clearly the prohibition against *school-sponsored* extracurricular activities, *unless* the activity program of the particular school is open to all activities—no matter how controversial these activities might be—without restraint by the school. Since most high schools do not provide such "open" experiences, religious clubs should be conducted under the sponsorship of non-school leaders and conducted wherever groups under such sponsorship might ordinarily meet. The club could meet at the school with the proper arrangements, but it is necessary to make clear the fact that it is not a school-sponsored activity. The recent discontinuation of a chapter of the Fellowship of Christian Athletes in one high school precipitated considerable furor and provided substance for sermons, pro and con, across that county. The issue would have been settled better if the activity had been precluded by clear policy rather than discontinued after gaining recognition as the most wholesome activity at the school.

Instruction About Religion

In 1976 the Social Studies Division of the State Department of Public Instruction developed plain, sensible guidelines for teaching religion in the public schools. If followed, these guidelines will help any local unit to provide courses which will offer the obvious advantages of learning about religions and the relationship of the many religions of the world to one another. The guidelines were developed with an optimum level of input from religious leaders and educators. The office of the Attorney General assisted with comments to assure compliance with all laws and other legal implications. Local units could adopt a policy-level commitment to follow these guidelines in offering courses on religion.

Some of the basic requirements of the state guidelines involve such matters as public funding, teacher selection, and course evaluation. Courses about religion should be offered in the same way that all other courses are, and no reliance should be placed on any group or individual outside the school.

Use of School Facilities for Religious Purposes

School facilities can and should be made available for use by all responsible groups within the community. This use should comply with provisions of a clear policy which treats all groups equally in regard to cost for use, cleaning, and general responsibility. Some superintendents report long-standing, mutually beneficial arrangements which have existed between schools and religious groups in their communities.

The preceding is only an attempt to show that the relationship of church and state in the public school setting in North Carolina has resulted in problems for those responsible for the operation of the schools. This is consistent with the reports of studies in that area. This is intended to show, too, that public school officials, teachers, and interested citizens have made considerable progress in complying with the relatively new requirements in this area which have been placed upon the schools. In fact, public schools have complied more fully with the affirmative thrust by the Supreme Court into the protection of individual rights during the past thirty years than has any other segment of our society. The time may very well be right for a series of studies and subsequent reports into how well our total society has kept pace with public schools. Schools can show everyone how to deal with critical reports: Admit your problems, talk with everyone who has a concern about them, and then work out a better way—together.

Questions for Discussion

1. Would you agree with the statement of Huidekoper in the *Newsweek* piece that to exclude teaching about religion is a "cop-out," in the sense that it omits from the curriculum the most serious and crucial questions about the ultimate meaning of life that students as seekers should confront and discuss?

2. Recalling your experience as a student in public schools, in courses in American history, in literature, in social studies, or in world religions, was "religion" treated at all? If so, did the teaching observe the fine line between the teaching of religion in a proselytizing sense and the teaching about religion in a critical sense?

3. "True objectivity is the open acknowledgment of one's own subjectivity." In the teaching of any course where religious problems are involved, is not the acknowledgment and defense of one's own particular persuasions or viewponts an inevitable, indeed a legitimate, stance? How does one relate this "confessional" stance with the openness and tolerance that will encourage and honor different persuasions?

Chapter Five

Chapter Five

The Hidden Religion in American Public Education

The intent of the previous chapter was to point to the thin line between the teaching *about* religion, which is legal, and the evangelical teaching *of* religion, which is not. Hopefully one lesson to be learned from this exercise is that it is impossible for teachers and students to be completely "neutral" in their interpretation of the validity and significance of religion.

But the word "religion" is itself vague and ambiguous. Would that the Founding Fathers had phrased the First Amendment to read, "Congress shall make no law establishing one church as the official church of the nation." A sharper definition of the word "religion" is needed. Perhaps this working definition may help to clarify the issue: a "religion" is that explicit or implicit system of faith-premises about the nature of ultimate reality, the essential purposes of human existence in relation to that ultimate reality, and the syndrome of values that constitute "the good life." By this definition, one's "God" becomes whatever is the object "of ultimate concern," to use the phrase of the theologian Paul Tillich. Or as Martin Luther phrased it, "Whatever your heart clings to and confides in is really your God." By such a broad definition, would not such faith-systems as Buddhism, Taoism, Americanity, Ethical Culture, and Marxism—though they are not "theistic" in the traditional sense—qualify as "religions"?

This is a much broader definition of "religion" than "church." It becomes of major importance when one asks, "What is the essential inner spirit of public education in America today?" When we say it is "secular," does that mean it is blank, vacant of any religious quality, and completely "neutral"? Many educators would answer "no." Spirit as much as nature abhors a vacuum, and if the traditional Judeo-Christian faith that once was the central purpose of common education has by legal decree been ruled out, then some other faith-system will take its place to fill the vacuum.

Currently there are many persons of the new Religious Right who protest that "secular humanism" is the real hidden religion in American public education, the faith in which the youth of our land are being nurtured. It is a religion that hides behind the curtain of "neutrality," but one that profoundly influences the minds and hearts of public school students in their ultimate devotions and their life styles.

It is important to define our key terms here. There are several kinds of humanism. As conservative evangelical Protestants see secular humanism, it is a faith-system which rejects any transcendent supreme being, including the God of the Judeo-Christian faith. In answering the question, "What do we live for?" it centers on "man as the measure of all things." Its moral theory, detached from all the rigid absolutes of tradition and all laws mandated from on high, is relativistic, normless, and situational. Anything goes. "If it feels good, do it." According to this faith, the purpose of education is social engineering—that is, to acquire skills in adjustment—rather than the nurture of reverence and divine accountability or training in the ethics of civility based on the Great Commandment to love God and neighbor. Secular humanism rejects the traditional notion of the saving work of God's grace in Christ, and looks to scientific technique and human ingenuity to be the solution to all human problems. One demonic expression of secular humanism, according to this view, is Marxist Communism, but there are other sinister forms of this faith stalking the classrooms of American public education.

Not all humanists, however, are "secular" humanists. Another religious perspective on ultimate reality and the human condition, espoused by liberal mainline churches, would indeed start from a theistic faith premise, namely, the belief in a transcendent God who is the source of the created order, the One beyond all the many, and the true object of "ultimate concern." But Christian humanism would issue in a keen social conscience for so ordering human affairs on the earth that peace, justice, equality, respect for the dignity and worth of all persons, and a passion for eco-justice would result. If such a faith were at the heart of the educational enterprise—with or without formal traditional devotional exercises—then between the lines of teaching and learning the techniques and skills of all the subjects in the curriculum, from mechanical engineering and nuclear physics and computer skills to literature and philosophy, the spirit of the school might be turned from brutalizing to humanizing ends. Perhaps, after all, secular humanism and Christian humanism are not as sharply opposed as may first appear.

Reading 14: Secular Humanism: The Hidden Religion

From "The Unproclaimed Priests of Public Education" by Timothy D. Crater. *Christianity Today*, 10 April 1981, pp. 44-47. Material is copyrighted by CHRISTIANITY TODAY 1981 and used by permission.

In the following selection, Timothy Crater, a Christian minister, protests the hidden religion in the classroom.

* * *

"The Unproclaimed Priests of Public Education"

I am a Christian and a pastor; I am persuaded that Christianity is true. In harmony with Jesus' approach, however, I do not wish to see the state or anyone else coerce others into Christianity or any religious system. It was the Christian faith that the Pilgrims and Puritans embraced; yet it was also they who endured the hardship of coming to this land to escape state-sponsored religion and to obtain the right to worship freely. Consequently, our nation was imbued early on with a passion to separate the church and the state, mainly for the protection of the church and freedom of religion.

The church is openly religious; we have a Bible, institutions, traditions, and all the markings of a religion. It should be evident, moreover, that we have gone to great pains in the United States to keep Christianity and other recognized religions out of the classrooms of state-sponsored schools—to the extent that voluntary prayers have been prohibited by the Supreme Court. Even evangelical Christianity tends to favor separation of state and religion.

The problem I wish to address is the fact that not every religion is willing to abide by this rule of separation, that there are those holding a religious position who are succeeding in obtaining state sponsorship for the teaching of their religious views in public schools.

Most religions consist of a unified system of beliefs that deal with basic views on such things as God and human ethics. These would be recognized as two basic elements in all religions—a view of God or some sort of ultimate reality, and a view of ethics, derived from ultimate realities. Most often these are expressed in some kind of holy book. Judaism and Christianity certainly fit that description and make no pretense of being anything other than religious systems.

As parents and as taxpayers, however, we may not be aware that humanism also possesses the basic elements of a religion. It has its "holy book," *The Humanist Manifesto, I* and *II*, a sort of Old and New Testament, if you will. The religion of humanism should not be confused with humaneness, humanitarianism, or the humanities, however. Humanism calls itself a religion at least seven times in the first four pages of its book. The very first sentence reads, "Humanism is a philosophical, religious, and moral point of view. . . ." Furthermore, humanism holds a position on God—it says there isn't one. Its book says "faith in the prayer-hearing God . . . is an unproved and outmoded faith . . . and there is insufficient evidence for belief in the existence of a supernatural."

Religious humanism, finally, has a firm position on ethics. Their "Bible" says, "Moral values derive their source from human experience. Ethics is autonomous and situational, needing no theological or ideological sanction." In other words, morals are not derived from absolutes given by God, but are determined by the individual from situation to situation. The Judeo-Christian view is a religion and humanism is its opposite number—image and counter image.

Lest there be any doubt, the Supreme Court has on at least two occasions identified secular humanism as a religion: in *Abington v. Schempp* and *Torcaso v. Watkins*. In *Torcaso*, the Court spelled out that "religion" in the constitutional sense includes nontheistic as well as theistic religion and the state is therefore forbidden to prohibit or promote either form of religion. It is here that the problem is to be found. The state *is* increasingly being put in the position of promoting humanism, a nontheistic religion, and to the detriment of the Judeo-Christian religious tradition.

As a parent and taxpayer, I face the problem that humanism is the dominant view among leading educators in the U.S.—among those who set the trends in education, develop the curricula, dispense federal moneys, advise governmental officials on education, and so on. This religious viewpoint is being promoted in public schools, frequently without the knowledge or consent of parents and taxpayers. Many teachers and educators participate in such programs without appreciating their significance. Furthermore, as a Christian, I am increasingly alarmed that my taxes are used to subvert my own position.

Parents could once assume that when they sent their children to school, the traditional Judeo-Christian values they held would at least be respected by the schools, if not reinforced. But no longer can parents make that assumption. According to the Gallup Polls, in 1977 at least 94 percent of Americans believed in God. Yet, among those in leadership in education, a significant number believe otherwise, professing humanism. Their views are the ones coming through to children in today's schools.

To show how this is coming about, we will go first to the root of the issue—the change in the philosophy of education. We will then examine some of the fruit—the specific programs carrying the humanist message into the schools. And finally, we will examine the attitude of those in educational leadership who are consciously trying to promote this approach.

Goal of Education

First, the philosophy of education: what is education supposed to accomplish? Most of us have thought that the schools' responsibility is to teach cognitive skills—reading, writing, math, and so on, in the context of such commonly accepted values as honesty, truthfuless, and discipline. Apparently this is still the expectation of parents as nationwide they are distressed over the 10-year decline in SAT (Scholastic Aptitude Test) scores and the growing awareness that today's children seem less equipped to read, write, and add in an increasingly complex culture.

Most parents would be surprised to discover that leading educators no longer see their job primarily to be the teaching of these necessary skills. The philosophy of education has undergone a fundamental change. Educators now perceive their job to be the complete "resocialization" of the child—the complete reshaping of his values, beliefs, and morals. Teaching is now being viewed as a form of therapy, the classroom as a clinic, and the teacher as a therapist whose job is to apply psychological techniques in the shaping of the child's personality and values.

There is evidence showing the philosophy of education has altered in this way. For example, such changes have been discussed in Congress, the subject of legislative action. S.I. Hayakawa, U.S. Senator from California, was an educator for most of his life. On the floor of the U.S. Senate, he stated:

> In recent years in colleges of education and schools of sociology and psychology, an educational heresy has flourished.... The heresy of which I speak regards the fundamental task of education as therapy.... There are exercises in psychodrama, role playing, touch therapy, encounter groups, involving necessarily the searching and exploration of innumerable matters that are nobody's business except that of the child, the child's parent, or the family's physician or psychiatrist.

The National Education Association report, "Education for the 70's." states clearly that "schools will become clinics whose purpose is to provide individualized psycho-social treatment for the student, and teachers must become psycho-social therapists." The *National Education Journal* states in February 1968 that "the most controversial issue of the 21st century will pertain to the ends and means of human behavior and who will determine them. The first education question will not be 'what knowledge is of the most worth?' but 'what kind of human behavior do we wish to produce?'"

Who will determine human behavior, and what kind of behavior do we want? Who will engineer society, and what kind of society shall we design? These are the tasks the educational leaders have set for themselves. They are not thinking small.

How will this affect what goes on in the classroom? Consider the following statement on what is to be studied in classrooms by the former president of the NEA, Catherine Barrett: "We will need to recognize that the so-called basic skills, which represent nearly the total effort in elementary schools, will be taught in one-quarter of the present school day. The remaining time will be devoted to what is truly fundamental and basic."

This is a remarkable viewpoint in light of the declining test scores that seem to indicate that education is not succeeding very well in communicating the basic skills. Barrett, nevertheless, wishes to press on undaunted to bigger and more significant things, such as redesigning society.

That the schools should be going in this direction is no real surprise. John Dewey, the patron saint of public education, was a signer of *Humanist Manifesto I*, and a president of the American Humanist Association. B.F. Skinner of Harvard, a prime advocate of behavioral psychology, was a signer of *Humanist Manifesto II*. Consider also a prophetic statement by Horace Mann, another early father of public education: "What the church has been for medieval man, the public school must become for democratic and rational man. God would be replaced by the concept of the public good."

Educational leaders thus say the big question in education is, "What human behavior do we want, and who will produce it?" And that is my question: According to whose pattern do the educationists propose to reconstruct society? Whose values will be taught? Without doubt, the state will uniformly educate its children in the values of the religion of humanism, for they are the "rational" ones. We are in no danger of having the state impose Judeo-Christian values on children; far from it. The question is, are we in jeopardy if the state becomes the sponsor of the religion of humanism?

Method

Let us now consider the fruit of this new philosophy, specific programs designed to convey a humanistic outlook on life. Those programs designed to shape young minds referred to by Senator Hayakawa included psychodrama, role playing, touch therapy, and encounter groups. To these we may add values clarification, situation ethics, sensitivity training, survival games, and other behavior-oriented programs. Beginning in kindergarten and continuing through high school, these programs are intended to modify children's attitudes, values, and beliefs. The problem is not with values as such, but with the fact that these new programs are designed to "free" the children from the Judeo-Christian notions of value and morality their parents may have passed on to them. These programs cover such topics as sex education, drug education, family life, human development, and personality adjustment.

Needless to say, there is no god in the system of values being taught by humanists, and so there are no absolutes, no clear rights and wrongs (except the clear "wrong" of having absolute convictions of right and wrong). The only basis for developing morals is what the child himself wants or thinks, and/or what the peer group decides is right. Strong convictions of right and wrong are looked upon as evidence of poor social adjustment and of the need for the teacher's therapy. The child must be delivered from primitive notions of morals. To aid in this, mothers and fathers are depicted in the literature as old-fashioned, as having hang-ups and strange ideas about morals, as being unable to keep up with the changing world. The children are much brighter and know much more than past generations who, after all, led us into our present mess! Old values have clearly failed, so, on to newer and better ones of our own making. Horace Mann was indeed prophetic: the school is to become the church for modern man....

The root of this problem is the religion of secular humanism and its effect on the philosophy of education. Its fruit consists of those specific educational programs designed to modify values and behavior, so as to reengineer society. What is the attitude of the educational elite in all of this?

Outlook

Sidney Simon is one of the educational elite in the U.S. He is a humanist. He teaches at the Center for the Humanistic Education in Amherst, Massachusetts, and is one of the main architects of values clarification theory, which is widely used in public schools. Mr. Simon has been quoted as admitting that when he was training teachers in values clarification in New York City, "an orthodox Jewish right-wing group got hold of it and just raised hell" because they felt "values shouldn't be dealt with in the school but should be left for the religious institutions and the home."

While teaching at Temple University, Simon said, "I always bootlegged the values stuff. I was assigned to teach social studies in elementary school and I taught values clarification. I was assigned current trends in American education and I taught my trend."

Simon's situational ethics are true to his humanist form, for he apparently saw nothing unethical about "bootlegging" religious beliefs into public education, nor did he feel moral guilt at his subterfuge and deception. This often seems to go along with the new approach to education. Keep it subtle, keep it quiet, or the parents will really get upset. This man trains teachers, and his attitude as an influential educational leader is seeping down to underlings who implement his educational strategies.

Rhoda Lorand, a member of the American Board of Professional Psychology, made some observations about the attitudes of educators before the U.S. House Sub-Committee on Education. Her testimony related to House Resolution 5163 having to do with education. Her words are as follows:

> The contempt for parents is so shockingly apparent in many of the courses funded under Title III, in which the teacher is required to become an instant psychiatrist who probes the psyche of her pupils, while encouraging them to criticize their parents' beliefs, values, and teachings. This process continues from kindergarten through the twelfth grade, and has created dissension and bitterness from one end of the country to the other.... The National Institute of Mental Health promotes these programs and funding for them is readily available through Title III. Therefore, despite the vigorously expressed opposition of parents, school officials continue to institute and implement these programs and feel free to insult the parents who object to them.

In other words, the educational elite have quietly usurped the authority of the parents, and since they can count on federal funds and power, they feel free to look with disdain on the parents who object to this arbitrary takeover. Their elitist arrogance is appalling. It is not at all clear that they know better how my child should be raised or that they have a superior system of values. In my judgment, they have no more right to impose their religious system on children than does any other group.

Private Education

Someone may well say, "If you don't like the public schools, send your children to private schools." In their distress over the declining quality of public education and displeasure at the attempt to subvert traditional values in the public schools, parents frequently have done just that. But what recourse do those parents have who can't afford private education as an escape from these problems? Consider the plight of a frustrated black father in New York City as his child falls further and further behind. Nat Hentoff wrote in *Learning*:

> The black father was so consumed with anger and despair that it was hard for him to speak. "You people," he said to the impassive members of the board of education, "operate a ... monopoly like the telephone company. I got no choice where I

> send my child to school. I can only go where it's free. And she's not learning. That's your responsibility, it's the principal's responsibility, it's the teacher's responsibility that she's not learning. And when you fail, when everybody fails my child, what happens? Nothing. Nobody gets fired. Nothing happens to nobody except my child."

In summary, we are faced with the imposition of a government-backed religion. The religion of humanism is being passed on to formative minds through state sponsorship of public education. The goal is to reshape society through the molding of young minds. Humanism is a self-proclaimed religion; it has its "Bible" and its beliefs. Its leaders are attempting to remake public school teachers into its ministers and priests, public classrooms into its sanctuaries, public tax coffers into its offering plates, and other people's children into its captive congregation. Humanism's "Bible" vigorously insists that it is wrong for the state to promote any religious view; humanists apparently mean any religious system other than their own. What should we do?

First, parents can educate themselves in this matter; good pamphlets and books are available. Our overall goal, next, ought to be to move the philosophy of education back into communicating basic skills and out of social engineering. Further, we should make it known that we do not accept the attempt to use the schools to promote a particular religious viewpoint—theistic or nontheistic.

On a local level, I do not recommend the bull-in-a-china-shop approach by parents. I do recommend their courteous but determined effort to discover the true nature of local school curricula. Parents have a right to know what their children are taught and they ought not be put off by the elitist attitudes of contempt or secrecy. Parents will find differing levels of humanist programs from school to school, and we ought not think that all teachers and educators are consciously trying to promote humanism. However, education is moving powerfully in that direction and now is the time to stop the trend.

Reading 15: Humanist Manifesto II

Paul Kurtz and Edwin H. Wilson, "Humanist Manifesto II," 1973. Reproduced by permission of Prometheus Books.

The "Bible" of secular humanism is the *Humanist Manifesto, I* and *II. A close reading of excerpts from* the *Humanist Manifesto II* indicates that it may not be as dangerous and anarchic as its critics deplore, that there are many values it celebrates which are consonant with the ethical norms of traditional Judeo-Christian faiths, such as the dignity and worth of persons, equal rights and civil liberties, stewardship of the resources of the earth, world peace, etc. However, these no longer have a theological foundation and sanction. They rest on their own merit.

Preface

It is forty years since *Humanist Manifesto I* (1933) appeared. Events since then make that earlier statement seem far too optimistic. Nazism has shown the depths of brutality of which humanity is capable. Other totalitarian regimes have suppressed human rights without ending poverty. Science has sometimes brought evil as well as good. Recent decades have shown that inhuman wars can be made in the name of peace. The beginnings of police states, even in democratic societies, widespread government espionage, and other abuses of power by military, political, and industrial elites, and the continuance of unyielding racism, all present a different and difficult social outlook. In various societies, the demands of women and minority groups for equal rights effectively challenge our generation.

As we approach the twenty-first century, however, an affirmative and hopeful vision is needed. Faith, commensurate with advancing knowledge, is also necessary. In the choice between despair and hope, humanists respond in this *Humanist Manifest II* with a positive declaration for times of uncertainty.

As in 1933, humanists still believe that traditional theism, especially faith in the prayer-hearing God, assumed to love and care for persons, to hear and understand their prayers, and to be able to do something about them is an unproved and outmoded faith. Salvationism, based on mere affirmation, still appears as harmful, diverting people with false hopes of heaven hereafter. Reasonable minds look to other means for survival.

Those who sign *Humanist Manifesto II* disclaim that they are setting forth a binding credo; their individual views would

be stated in widely varying ways. The statement is, however, reaching for vision in a time that needs direction. It is social analysis in an effort at consensus. New statements should be developed to supersede this, but for today it is our conviction that humanism offers an alternative that can serve present-day needs and guide humankind toward the future.

* * *

The next century can be and should be the humanistic century. Dramatic scientific, technological, and ever-accelerating social and political changes crowd our awareness. We have virtually conquered the planet, explored the moon, overcome the natural limits of travel and communication; we stand at the dawn of a new age, ready to move farther into space and perhaps inhabit other planets. Using technology wisely, we can control our environment, conquer poverty, markedly reduce disease, extend our life-span, significantly modify our behavior, alter the course of human evolution and cultural development, unlock vast new powers, and provide humankind with unparalleled opportunity for achieving an abundant and meaningful life.

The future is, however, filled with dangers. In learning to apply the scientific method to nature and human life, we have opened the door to ecological damage, overpopulation, dehumanizing institutions, totalitarian repression, and nuclear and biochemical disaster. Faced with apocalyptic prophesies and doomsday scenarios, many flee in despair from reason and embrace irrational cults and theologies of withdrawal and retreat.

Traditional moral codes and newer irrational cults both fail to meet the pressing needs of today and tomorrow. False "theologies of hope" and messianic ideologies, substituting new dogmas for old, cannot cope with existing world realities. They separate rather than unite peoples.

Humanity, to survive, requires bold and daring measures. We need to extend the uses of scientific method, not renounce them, to fuse reason with compassion in order to build constructive social and moral values. Confronted by many possible futures, we must decide which to pursue. The ultimate goal should be the fulfillment of the potential for growth in each human personality—not for the favored few, but for all of humankind. Only a shared world and global measures will suffice.

A humanist outlook will tap the creativity of each human being and provide the vision and courage for us to work together. This outlook emphasizes the role human beings can play in their own spheres of action. The decades ahead call for dedicated, clear-minded men and women able to marshal the will, intelligence, and cooperative skills for shaping a desirable future. Humanism can provide the purpose and inspiration that so many seek; it can give personal meaning and significance to human life.

Many kinds of humanism exist in the contemporary world. The varieties and emphases of naturalistic humanism include "scientific," "ethical," "democratic," "religious," and "Marxist" humanism. Free thought, atheism, agnosticism, skepticism, deism, rationalism, ethical culture, and liberal religion all claim to be heir to the humanist tradition. Humanism traces its roots from ancient China, classical Greece and Rome, through the Renaissance and the Enlightenment, to the scientific revolution of the modern world. But views that merely reject theism are not equivalent to humanism. They lack commitment to the positive belief in the possibilities of human progress and to the values central to it. Many within religious groups, believing in the future of humanism, now claim humanist credentials. Humanism is an ethical process through which we all can move, above and beyond the divisive particulars, heroic personalities, dogmatic creeds, and ritual customs of past religions or their mere negation.

We affirm a set of common principles that can serve as a basis for united action—positive principles relevant to the present human condition. They are a design for a secular society on a planetary scale.

For these reasons, we submit this new *Humanist Manifesto* for the future of humankind; for us, it is a vision of hope, a direction for satisfying survival.

Religion

First: In the best sense, religion may inspire dedication to the highest ethical ideals. The cultivation of moral devotion and creative imagination is an expression of genuine "spiritual" experience and aspiration.

We believe, however, that traditional dogmatic or authoritarian religions that place revelation, God, ritual, or creed above human needs and experience do a disservice to the human species. Any account of nature should pass the tests of scientific evidence; in our judgment, the dogmas and myths of traditional religions do not do so. Even at this late date in human history, certain elementary facts based upon the critical use of scientific reason have to be restated. We find insufficient evidence for belief in the existence of a supernatural; it is either meaningless or irrelevant to the question of the survival and fulfillment of the human race. As nontheists, we begin with humans not God, nature not deity. Nature may indeed be broader and deeper than we now know; any new discoveries, however, will but enlarge our knowledge of the natural.

Some humanists believe we should reinterpret traditional religions and reinvest them with meanings appropriate to the current situation. Such redefinitions, however, often perpetuate old dependencies and escapisms; they easily become obscurantist, impeding the free use of the intellect. We need, instead, radically new human purposes and goals.

We appreciate the need to preserve the best ethical teachings in the religious traditions of humankind, many of which we share in common. But we reject those features of traditional religious morality that deny humans a full appreciation of their own potentialities and responsibilities. Traditional religions often offer solace to humans, but, as often, they inhibit humans from helping themselves or experiencing their full potentialities. Such institutions, creeds and rituals often impede the will to serve others. Too often traditional faiths encourage dependence rather than independence, obedience rather than affirmation, fear rather than courage. More recently they have generated concerned social action, with many signs of relevance appearing in the wake of the "God Is Dead" theologies. But we can discover no divine purpose or providence for the human species. While there is much that we do not know, humans are responsible for what we are or will become. No deity will save us; we must save ourselves.

Second: Promises of immortal salvation or fear of eternal damnation are both illusory and harmful. They distract humans from present concerns, from self-actualization, and from rectifying social injustices. Modern science discredits such historic concepts as the "ghost in the machine" and the "separable soul." Rather, science affirms that the human species is an emergence from natural evolutionary forces. As far as we know, the total personality is a function of the biological organism transacting in a social and cultural context. There is no credible evidence that life survives the death of the body. We continue to exist in our progeny and in the way that our lives have influenced others in our culture.

Traditional religions are surely not the only obstacles to human progress. Other ideologies also impede human advance. Some forms of political doctrine, for instance, function religiously, reflecting the worst features of orthodoxy and authoritarianism, especially when they sacrifice individuals on the altar of Utopian promises. Purely economic and political viewpoints, whether capitalist or communist, often function as religious and ideological dogma. Although humans undoubtedly need economic and political goals, they also need creative values by which to live.

Ethics

Third: We affirm that moral values derive their source from human experience. Ethics is *autonomous* and *situational*, needing no theological or ideological sanction. Ethics stems from human need and interest. To deny this distorts the whole basis of life. Human life has meaning because we create and develop our futures. Happiness and the creative realization of human needs and desires, individually and shared in enjoyment, are continuous themes of humanism. We strive for the good life, here and now. The goal is to pursue life's enrichment despite debasing forces of vulgarization, commercialization, bureaucratization, and dehumanization.

Fourth: Reason and intelligence are the most effective instruments that humankind possesses. There is no substitute: neither faith nor passion suffices in itself. The controlled use of scientific methods, which have transformed the natural and social sciences since the Renaissance, must be extended further in the solution of human problems. But reason must be tempered by humility, since no group has a monopoly of wisdom or virtue. Nor is there any guarantee that all problems can be solved or all questions answered. Yet critical intelligence, infused by a sense of human caring, is the best method that humanity has for resolving problems. Reason should be balanced with compassion and empathy and the whole person fulfilled. Thus, we are not advocating the use of scientific intelligence independent of or in opposition to emotion, for we believe in the cultivation of feeling and love. As science pushes back the boundary of the known, one's sense of wonder is continually renewed, and art, poetry and music find their places, along with religion and ethics.

The Individual

Fifth: The preciousness and dignity of the individual person is a central humanist value. Individuals should be encouraged to realize their own creative talents and desires. We reject all religious, ideological, or moral codes that denigrate the individual, suppress freedom, dull intellect, dehumanize personality. We believe in maximum individual autonomy consonant with social responsibility. Although science can account for the causes of behavior, the possibilities of individual *freedom of choice* exist in human life and should be increased.

Sixth: In the area of sexuality, we believe that intolerant attitudes, often cultivated by orthodox religions and puritanical cultures, unduly repress sexual conduct. The right to birth control, abortion, and divorce should be recognized. While we do not approve of exploitive, denigrating forms of sexual expression, neither do we wish to prohibit, by law or social sanction, sexual behavior between consenting adults. The many varieties of sexual exploration should not in themselves be considered "evil." Without countenancing mindless permissiveness or unbridled promiscuity, a civilized society should be a *tolerant* one. Short of harming others or compelling them to do likewise, individuals should be permitted to express their sexual proclivities and pursue their life-styles as they desire. We wish to cultivate the development of a responsible attitude toward sexuality, in which humans are not exploited as sexual objects, and in which intimacy, sensitivity, respect, and honesty in interpersonal relations are encouraged. Moral education for children and adults is an important way of developing awareness and sexual maturity.

Democratic Society

Seventh: To enhance freedom and dignity the individual must experience a full range of *civil liberties* in all societies.

This includes freedom of speech and the press, political democracy, the legal right of opposition to governmental policies, fair judicial process, religious liberty, freedom of association, and artistic, scientific, and cultural freedom. It also includes a recognition of an individual's right to die with dignity, euthanasia, and the right to suicide. We oppose the increasing invasion of privacy, by whatever means, in both totalitarian and democratic societies. We would safeguard, extend, and implement the principles of human freedom evolved from the *Magna Carta* to the *Bill of Rights*, the *Rights of Man*, and the *Universal Declaration of Human Rights*.

Eighth: We are committed to an open and democratic society. We must extend *participatory democracy* in its true sense to the economy, the school, the family, the workplace, and voluntary associations. Decision-making must be decentralized to include widespread involvement of people at all levels—social, political, and economic. All persons should have a voice in developing the values and goals that determine their lives. Institutions should be responsive to expressed desires and needs. The conditions of work, education, devotion, and play should be humanized. Alienating forces should be modified or eradicated and bureaucratic structures should be held to a minimum. People are more important than decalogues, rules, proscriptions, or regulations.

Ninth: The separation of church and state and the separation of ideology and state are imperatives. The state should encourage maximum freedom for different moral, political, religious and social values in society. It should not favor any particular religious bodies through the use of public monies, nor espouse a single ideology and function thereby as an instrument of propaganda or oppression, particularly against dissenters.

Tenth: Humane societies should evaluate economic systems not by rhetoric or ideology, but by whether or not they *increase economic well-being* for all individuals and groups, minimize poverty and hardship, increase the sum of human satisfaction, and enhance the quality of life. Hence the door is open to alternative economic systems. We need to democratize the economy and judge it by its responsiveness to human needs, testing results in terms of the common good.

Eleventh: The principle of moral equality must be furthered through elimination of all discrimination based upon race, religion, sex, age, or national origin. This means equality of opportunity and recognition of talent and merit. Individuals should be encouraged to contribute to their own betterment. If unable, then society should provide means to satisfy their basic economic, health, and cultural needs, including, wherever resources make possible, a minimum guaranteed annual income. We are concerned for the welfare of the aged, the infirm, the disadvantaged, and also for the outcasts—the mentally retarded, abandoned or abused children, the handicapped, prisoners, and addicts—for *all* who are neglected or ignored by society. Practicing humanists should make it their vocation to humanize personal relations.

We believe in the *right to universal education*. Everyone has a right to the cultural opportunity to fulfill his or her unique capacities and talents. The schools should foster satisfying and productive living. They should be open at all levels to any and all; the achievement of excellence should be encouraged. Innovative and experimental forms of education are to be welcomed. The energy and idealism of the young deserve to be appreciated and channeled to constructive purposes.

We deplore racial, religious, ethnic, or class antagonisms. Although we believe in cultural diversity and encourage racial and ethnic pride, we reject separations which promote alienation and set people and groups against each other; we envision an *integrated* community where people have a maximum opportunity for free and voluntary association.

We are *critical of sexism or sexual chauvinism*—male or female. We believe in equal rights for both women and men to fulfill their unique careers and potentialities as they see fit, free of invidious discrimination.

World Community

Twelfth: We deplore the division of humankind on nationalistic grounds. We have reached a turning point in human history where the best option is to *transcend the limits of national sovereignty* and to move toward the building of a world community in which all sectors of the human family can participate. Thus we look to the development of a system of world law and a world order based upon transnational federal government. This would appreciate cultural pluralism and diversity. It would not exclude pride in national origins and accomplishments nor the handling of regional problems on a regional basis. Human progress, however, can no longer be achieved by focusing on one section of the world, Western or Eastern, developed or underdeveloped. For the first time in human history, no part of humankind can be isolated from any other. Each person's future is in some way linked to all. We thus reaffirm a commitment to the building of world community, at the same time recognizing that this commits us to some hard choices.

Thirteenth: This world community must *renounce the resort to violence and force* as a method of solving international disputes. We believe in the peaceful adjudication of differences by international courts and by the development of the arts of negotiation and compromise. War is obsolete. So is the use of nuclear, biological, and chemical weapons. It is a planetary imperative to reduce the level of military expenditures and turn these savings to peaceful and people-oriented uses.

Fourteenth: The world community must engage in *cooperative planning* concerning the use of rapidly depleting resources. The planet earth must be considered a single *ecosystem*. Ecological damage, resource depletion, and excessive population growth must be checked by international concord.

The cultivation and conservation of nature is a moral value; we should perceive ourselves as integral to the sources of our being in nature. We must free our world from needless pollution and waste, responsibly guarding and creating wealth, both natural and human. Exploitation of natural resources, uncurbed by social conscience, must end.

Fifteenth: The problems of *economic growth and development* can no longer be resolved by one nation alone; they are worldwide in scope. It is the moral obligation of the developed nations to provide—through an international authority that safeguards human rights—massive technical, agricultural, medical, and economic assistance, including birth control techniques, to the developing portions of the globe. World poverty must cease. Hence extreme disproportions in wealth, income, and economic growth should be reduced on a worldwide basis.

Sixteenth: Technology is a vital key to human progress and development. We deplore any neo-romantic efforts to condemn indiscriminately all technology and science or to counsel retreat from its further extension and use for the good of humankind. We would resist any moves to censor basic scientific research on moral, political, or social grounds. Technology must, however, be carefully judged by the consequences of its use; harmful and destructive changes should be avoided. We are particularly disturbed when technology and bureaucracy control, manipulate, or modify human beings without their consent. Technological feasibility does not imply social or cultural desirability.

Seventeenth: We must expand communication and transportation across frontiers. Travel restrictions must cease. The world must be open to diverse political, ideological, and moral viewpoints and evolve a worldwide system of television and radio for information and education. We thus call for full international cooperation in culture, science, the arts, and technology *across ideological borders.* We must learn to live openly together or we shall perish together.

Humanity as a Whole

In closing: The world cannot wait for a reconciliation of competing political or economic systems to solve its problems. These are the times for men and women of good will to further the building of a peaceful and prosperous world. We urge that parochial loyalties and inflexible moral and religious ideologies be transcended. We urge recognition of the common humanity of all people. We further urge the use of reason and compassion to produce the kind of world we want—a world in which peace, prosperity, freedom, and happiness are widely shared. Let us not abandon that vision in despair or cowardice. We are responsible for what we are or will be. Let us work together for a humane world by means commensurate with humane ends. Destructive ideological differences among communism, capitalism, socialism, conservatism, liberalism, and radicalism should be overcome. Let us call for an end to terror and hatred. We will survive and prosper only in a world of shared humane values. We can initiate new directions for humankind; ancient rivalries can be superseded by broad-based cooperative efforts. The commitment to tolerance, understanding, and peaceful negotiation does not necessitate acquiescence to the status quo nor the damming up of dynamic and revolutionary forces. The true revolution is occurring and can continue in countless non-violent adjustments. But this entails the willingness to step forward onto new and expanding plateaus. At the present juncture of history, commitment to all humankind is the highest commitment of which we are capable; it transcends the narrow allegiances of church, state, party, class, or race in moving toward a wider vision of human potentiality. What more daring a goal for humankind than for each person to become, in ideal as well as practice, a citizen of a world community. It is a classical vision; we can now give it new vitality. Humanism thus interpreted is a moral force that has time on its side. We believe that humankind has the potential intelligence, good will, and cooperative skill to implement this commitment in the decades ahead.

Questions for Discussion

1. Would you agree with the claim made above that the spirit of education cannot remain "neutral" with regard to ultimate concerns and values?

2. Which of the ethical ideals of the Humanist Manifesto II are in keeping with your understanding of the ethics of the Judeo-Christian faith? Which ones are not?

3. To what extent do you feel that children currently, both inside and outside the schoolroom, are being profoundly influenced by the "religion" of "scientism," the faith that technology is the "saviour" of our culture? How should the traditional Judeo-Christian faith be related to technology in the educational pattern of our public school curricula?

Chapter Six

Chapter Six

Evolution vs. Scientific Creationism

One controversy hotly debated in the schools and courts where the conservative Religious Right is sharply opposed to the teaching of science is in the debate over "scientific creationism" versus Darwinian evolution, which many conservative Christians take to be that form of secular humanism which most directly challenges the Christian faith.

In 1981, certain Fundamentalist leaders in Arkansas and Louisiana prevailed on the state school boards to have the theory of "scientific creationism," based on the first chapters of Genesis, taught in secondary school science courses as an alternative to the theory of evolution. The North Carolin chapter of the Moral Majority attempted, without success, to ban the standard high school biology science texts because they presented the Darwinian evolutionary theory as "fact." The "creationists" even found some political support: in his 1980 campaign, Ronald Reagan expressed the view that the evolutionary theory has been seriously challenged. "If it is going to be taught in the schools, then I think the Biblical theory of creation should also be taught."[1] Earlier, the New Right had mounted such an effective lobby in Washington that on May 12, 1976, the House of Representatives passed an amendment to the National Defense Education Act affirming that "no preference be granted to the religion of secular humanism over the Judaic-Christian viewpoint in government-sponsored curricula."[2] This kind of vote would seem to reflect a popular, grass-roots sentiment. An NBC News public survey found that 76 percent of those polled felt that the public schools should teach both the scientific theory of evolution and the Biblical theory of creation.[3]

In 1982, the Arkansas law requiring a "balanced treatment" of the two views was overturned by the federal district court. Judge William Overton's decision may give us a clue as to how this controversy may be resolved. Despite the claims of some—like the authors of *What Is Creation Science?*[4]—that creationism is pure science, "not based on the Genesis creation story or any other religious teaching," Judge Overton affirmed that creation science is an extension of the fundamentalist view that one must either accept the literal interpretation of Genesis or else believe in the godless system of evolution. "Since 'creation science' is not science, the conclusion is inescapable that the only real purpose of the measure [to allow equal time] is the advancement of religion." And since this would lead in public education to "excessive state entanglement with religion," he ruled the Arkansas policy unconstitutional.[5]

If the debate continues, as it will, along the lines that it has —namely, with the fundamentalists claiming that the Biblical account of creation is the only true science of the origin of the universe and humanity, while the evolutionists claim that the universe gradually evolved over aeons and that life developed by a process of natural selection—then the debate can only end in a standoff and a stalemate.

But perhaps there is another way to come at the matter: *both* the Biblical view of the origin of the universe and the source of life *and* the evolutionary theories are true, but on different levels of meaning. The two views do not collide; they are two different ways of trying to understand reality. The whole of the Biblical world view and its cosmology is *mythological*, not in the sense that myth means "false," but in the sense that myth as allegory describes the ultimate source and ground of being through graphic poetic imagery, that is to say, in ways that elude and transcend literal empirical description. Genesis 1 and much of the poetry of the Psalms celebrate the grandeur, the mystery, and the glory of God. The Old Testament is not interested as much in first beginnings as in the continual creation of the eco-system. "The heavens declare the glory of God, and the earth showeth his handiwork" (Psalm 19:1). But the precise content of this "heavenly" declaration cannot be tape-recorded. "He takes the clouds for a chariot and rides on the wings of the winds" (Psalm 104:3). But no satellite speedometer could tally His exact speed. When creationism is taken as science, verifiable by empirical evidence, then some awkward questions arise. For example (stretching the imagination), *if* the fossil remains of Adam *could* be found, would evidence reveal that he had no navel, and that one rib bone was lacking (since, according to Gen. 2:22, Eve was created out of one of Adam's ribs)?

The literalist reading of many Old Testament materials beyond the creation stories in Genesis involves some difficult problems. For example, how would it be possible, given the limited size of Noah's ark as specified exactly in Genesis 6:15, to squeeze into the ark one male and one female specimen of every living animal on the earth? It would be crowded indeed.

It may be well to remember that science and theology have not always been opposed, nor need they be.Many of the greatest figures in the history of science were theists in their basic faith-premise, all the way from the astronomer Kepler who could exclaim, "Almighty God, these are Thy thoughts I am thinking after Thee," to an Albert Einstein who said, "The Lord God may be subtle, but He is never mischievous." That is to say, the tacit assumption or "faith-premise" of the scientific enterprise is that there is a given order within the apparent disorder—an order not of human making—which the human mind can probe and describe. Charles Darwin himself affirmed: "There is grandeur in this view of life, with its several powers, having been originally breathed by the Creator into a few forms or into one: and that . . . from so simple a beginning endless forms most beautiful and most wonderful have been and are being evolved."[6]

Perhaps, then, the current controversy between the fundamentalists and the evolutionary scientists as to what should be taught in science courses in our public schools is a misplaced and fruitless debate, if it goes on in the terms in which it is now cast. A more fruitful way of going at this problem is to recognize that the myths of the Bible are true expressions of faith about the ultimate source of human existence, the great "WHY" behind it all, and the scientific study of evolution—archaeology, genetics, biology, paleontology, etc.—is the study of "HOW." These are not colliding but compatible approaches to truth. Faith, reason, and the testing of experience (both fact and fancy) are all involved in the study of religion and of science.

The sections that follow represent various persuasions on this controverted topic. It is important to note that many "scientific creationists" claim that their position is *not* one based on the account of creation as found in the first chapters of Genesis—is not, in short, religious dogma, but scientific theory supported by empirical evidence. Such a position was explicated in a debate held at Liberty Baptist College, Virginia, in 1981 by Dr. Duane Gish of the Institute of Creation Research in California.

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[1] Dorothy Nelkin, *The Creation Controversy: Science or Scripture in the Schools* (New York: Norton, 1982), p. 18.

[2] Ibid., p. 70.

[3] Ibid., p. 146.

[4] Henry M. Morris and Gary E. Parker. *What is Creation Science?* San Diego, CA: Creation-Life Publishers, 1982).

[5] *New York Times*, 6 January 1982, p. 138.

[6] Nelkin, *op cit.*, p. 28.

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Reading 16: Scientific Creationism

From a debate held at Liberty Baptist College, Lynchburg, VA., 13 October 1981, between Dr. Duane Gish and Dr. Russell F. Doolittle. Reproduced with the permission of Dr. Duane T. Gish.

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* * *

From Dr. Gish's statement

There are two fundamentally different explanations for the origin of the universe and the living things it contains. According to the theory of evolution, or as we should more properly call it "The Evolution Model" everything in our universe has come into being through mechanistic processes which are ascribed to properties inherent in matter. No supernatural intervention of any kind was involved. In fact, by definition, God is excluded. Thus, while not all evolutionists are atheists, the theory of evolution *is* an atheistic theory. According to this theory, all living things have arisen from the single one-cell organism which in turn had arisen from a dead, inanimate world. This theory may be called the general theory of evolution, the particles to people theory.

On the other hand, after 120 years of Darwinism, a rapidly growing number of scientists have become convinced that natural laws and processes absolutely *exclude* the possibility that the universe could have created itself, and that the best available evidence demonstrates that living things could not and in fact, did not arise from lower forms. These scientists have become convinced that the concept of creation is a much more credible explanation of the evidence related to origins. According to the concept of creation, or as it may be called "The Creation Model" the origin of the universe and all living forms came into being through the designed purpose and deliberate acts of a supernatural creator. The creator, using special processes not operating today, created the stars, our solar system, and all living types of plants and animals. Although there were no human witnesses to any of these events, creation can be inferred by the normal methods of science: observation and logic, just as surely as we can all tell the difference between a pebble formed by natural processes and an arrowhead created with plan and purpose.

Let us all dispense, once and for all, with the notion that this is a debate between science and religion. Each concept of origins is equally scientific and each is equally religious. In fact, neither qualifies as a scientific theory. The first requirement in science is observation. Obviously, there were not human observers to the origin of the universe, the origin of life, or as a matter of fact, to the origin of a single living thing. These events were unique, unrepeatable historical events of the past. Furthermore, even if evolution were occurring at the present time, it would require hundreds of thousands of years, to produce the kinds of change needed to document evolution. Ultimately then, no theory of origin can be considered a scientific theory in a strict sense. Creation and evolution and *inferences* based on circumstantial evidence, and predictions based on each model can be tested and compared with that circumstantial evidence.

Among creationists are found those of almost all religious persuasions, except atheists. And among evolutionists are found those of almost all persuasions *including* atheists. However, since evolution is a mechanistic atheistic theory, it is a basic dogma of agnosticism, humanism and atheism in general. The one-sided indoctrination of our students in this materialistic philosophy, in the tax-supported public schools, in our pluralistic, democratic society is a violation of academic and religious freedoms. Furthermore, it is poor science and poor education. To remedy this intolerable situation, creation scientists are asking that, excluding the use of the Bible or religious literature of any kind, only the scientific evidence that can be adduced in favor of creation and evolution be presented thoroughly and fairly in our public schools. After students have had an opportunity to examine all the data, consider each alternative and to weigh the implications and consequences of each position, then they should be challenged to decide for themselves, which is more credible or reasonable. Now, that *is* good education in the finest tradition of academic freedom.

Three or four centuries ago, the notion that the sun and other planets revolved around the earth was the dogma of the scientific establishment. Galileo faced determined opposition from fellow astronomers when he suggested otherwise. Louis Pasteur and others, about a century ago, overturned the established dogma of centuries when they showed that living things never arise spontaneously from dead matter. Today, even though thousands of scientists are creationists, and the number is growing rapidly, the notion of evolution remains a stifling dogma. Evolutionists seem to smother all challenges from within or without the scientific and educational establishment—concealing the fallacies and weaknesses of the theory and adamantly opposing a hearing for the scientific case for creation. Why is this so? Certainly not because the notion of evolution is science and the concept of creation is religion. I can think of two possibilities. First, it may be that evolutionists consider that our students are too ignorant, too illiterate, to be exposed to these competing ideas of origin. They must be protected from error, and carefully indoctrinated in correct ideas, by those who consider themselves to be intellectual elite, the sole possessors of truth. Secondly, having engendered this fragile tower of hypothesis, piled upon hypothesis, we're back to fiction intermingled in an inextricable confusion. It may be that evolutionists are aware of the fact that the notion of evolution will fare badly if exposed to an open and determined challenge from creation scientists, and that if this is done, the majority of our students will accept creation as the better of the two concepts of origin. Whatever may be the case, it is urgent that our students be exposed to *all* of the evidence, *all* of the arguments on each side of this question, so that these two alternative concepts of origin—creation and evolution— can compete freely in the market place of ideas.

* * *

Reading 17: *McClean v. Arkansas Board of Education*

"Definitions of Terms and Excerpts from Ruling Overturning Arkansas Law," January 6, 1982. © 1982 by The New York Times Company, Reprinted by Permission.

A close reading of the following full text of Judge William Overton's 1982 ruling that the teaching of "creation-science" in Arkansas public schools was unconstitutional will reveal his persuasion that a fundamentalist religious conviction is the hidden premise of the creation-science movement.

* * *

"Definitions, Terms and Excerpts From Ruling Overturning Arkansas Law"

SECTION OF LAW

Definitions, as used in this act:

(a) "Creation-science" means the scientific evidences for creation and inferences from those scientific evidences. Creation-science includes the scientific evidences and related inferences that indicate: (1) Sudden creation of the universe, energy, and life from nothing; (2) The insufficiency of mutation and natural selection in bringing about development of all living kinds from a single organism; (3) Changes only within fixed limits of originally created kinds of plants and animals; (4) Separate ancestry for man and apes; (5) Explanation of the earth's geology by catastrophism, including the occurrence of a worldwide flood; and (6) A relatively recent inception of the earth and living kinds.

(b) "Evolution-science" means the scientific evidences for evolution and inferences from those scientific evidences. Evolution-science includes the scientific evidences and related inferences that indicate: (1) Emergence by naturalistic processes of the universe from disordered matter and emergence of life from nonlife; (2) The sufficiency of mutation and natural selection in bringing about development of present living kinds from simple earlier kinds; (3) Emergence by mutation and natural selection of present living kinds from sample earlier kinds; (4) Emergence of man from a common ancestor with apes; (5) Explanation of the earth's geology and the evolutionary sequence by uniformitarianism; and (6) An inception several billion years ago of the earth and somewhat later of life.

EXCERPTS FROM DECISION

The evidence establishes that the definition of "creation-science" has as its unmentioned reference the first 11 chapters of the Book of Genesis. Among the many creation epics in human history, the account of sudden creation from nothing, or creation ex nihilo, and subsequent destruction of the world by flood is unique to Genesis. The concepts are the literal fundamentalists' view of Genesis.

The ideas are not merely similar to the literal interpretation of Genesis; they are identical and parallel to no other story of creation.

The argument that creation from nothing does not involve a supernatural deity has no evidentiary or rational support. To the contrary, "creation out of nothing" is a concept unique to Western religions. In traditional Western religious thought, the conception of a creator of the world is a conception of God.

Indeed, creation of the world "out of nothing" is the ultimate religious statement because God is the only actor. As Dr. Langdon Gilkey noted, the Act refers to one who has the power to bring all the universe into existence from nothing. The only "one" who has this power is God.

The argument advanced by defendants' witness, Dr. Norman Geisler, that teaching the existence of God is not religious unless the teaching seeks a commitment, is contrary to common understanding and contradicts settled case law.

The approach to teaching "creation-science" and "evolution-science" is identical to the two-model approach espoused by the Institute for Creation Research and is taken almost verbatim from I.C.R. writings. It is an extension of fundamentalists' view that one must either accept the literal interpretation of Genesis or else believe in the godless system of evolution.

"No Scientific Factual Basis"

The two-model approach of the creationists is simply a contrived dualism which has no scientific factual basis or legitimate educational purpose. The emphasis on origins as an aspect of the theory of evolution is peculiar to creationist literature. Although the subject of origins of life is within the province of biology, the scientific community does not consider origins of life a part of evolutionary theory.

The theory of evolution assumes the existence of life and is directed to an explanation of how life evolved. Evolution does not presuppose the absence of a creator or God and the plain inference conveyed by Section 4 is erroneous.

The essential characteristics of science are: (1) It is guided by natural law; (2) It has to be explanatory by reference to natural law; (3) It is testable against the empirical world; (4) Its conclusions are tentative, i.e., are not necessarily the final word; and (5) it is falsifiable.

If the unifying idea of supernatural creation by God is removed from Section 4, the remaining parts of the section explain nothing and are meaningless assertions.

Section 4 (a) (2), relating to the "insufficiency of mutation and natural selection in bringing about development of all living kinds from a single organism," is an incomplete negative generalization directed at the theory of evolution.

Section 4 (a) (3) which describes "changes only within fixed limits of originally created kinds of plants and animals" fails to conform to the essential characteristics of science for several reasons.

First, there is no scientific definition of "kinds" and none of the witnesses was able to point to any scientific authority which recognized the term or knew how many "kinds" existed.

Second, the assertion appears to be an effort to establish outer limits of changes within species. There is no scientific explanation for these limits which is guided by natural law and the limitations, whatever they are, cannot be explained by natural law.

The statement in 4 (a) (4) of "separate ancestry of man and apes" is a bald assertion. It explains nothing and refers to no scientific fact or theory.

Section 4 (a) (5) refers to "explanation of the earth's geology by catastrophism, including the occurrence of a worldwide flood." This assertion completely fails as science. The Act is referring to the Noachian flood described in the Book of Genesis.

A Supernatural Force

The creationist writers concede that any kind of Genesis flood depends upon supernatural intervention. A worldwide flood as an explanation of the world's geology is not the product of natural law, nor can its occurrence be explained by natural law.

Section 4 (a) (6) equally fails to meet the standards of science. "Relatively recent inception" has no scientific meaning. It can only be given meaning by reference to creationist writings which place the age at between 6,000 and 20,000 years because of the genealogy of the Old Testament. Such a reasoning process is not the product of natural law; not explainable by natural law; nor is it tentative.

The scientific community consists of individuals and groups who work independently in such varied fields as biology, paleontology, geology and astronomy. Their work is published and subject to review and testing by their peers.

The journals for publication are both numerous and varied. There is, however, not one recognized scientific journal which has published an article espousing the creation-science theory described in Section 4.

Some of the state's witnesses suggested that the scientific community was "close-minded" on the subject of creationism and that explained the lack of acceptance of the creation science arguments. Yet no witness produced a scientific article for which publication had been refused.

Cannot Accept Argument

Perhaps some members of the scientific community are resistant to new ideas. It is, however, inconceivable that such a loose knit group of independent thinkers in all the varied fields of science could, or would, so effectively censor new scientific thought.

The methodology employed by creationists is another factor which is indicative that their work is not science. A scientific theory must be tentative and always subject to revision or abandonment in light of facts that are inconsistent with, or falsify, a theory. A theory that is by its own terms dogmatic, absolutist and never subject to revision is not a scientific theory.

The creationists' methods do not take data, weigh it against the opposing scientific data, and thereafter reach the conclusions stated in Section 4 (a). Instead, they take the literal wording of the Book of Genesis and attempt to find scientific support for it.

An "Unscientific Approach"

The Creation Research Society employs the same unscientific approach to the issue of creationism. Its applicants for membership must subscribe to the belief that the Book of Genesis is "historically and scientifically true in all of the original autographs."

The court would never criticize or discredit any person's testimony based on his or her religious beliefs. While anybody is free to approach a scientific inquiry in any fashion they choose, they cannot properly describe the methodology used as scientific, if they start with a conclusion and refuse to change it regardless of the evidence developed during the course of the investigation.

It is easy to understand why educators find the creationists' textbook material and teaching guides unacceptable. The materials misstate the theory of evolution in the same fashion as Section 4 (b) of the Act, with emphasis on the alternative mutually exclusive nature of creationism and evolution. Students are constantly encouraged to compare and make a choice between the two models, and the material is not presented in an accurate manner.

The "public school edition" texts written by creationists simply omit Biblical references but the content and message remain the same.

Since creation science is not science, the conclusion is inescapable that the only real effect of Act 590 is the advancement of religion.

References to the pervasive nature of religious concepts in creation science texts amply demonstrate why state entanglement with religion is inevitable under Act 590. Involvement of the state in screening texts for impermissible religious references will require state officials to make delicate religious judgments. The need to monitor classroom discussion in order to uphold the Act's prohibition against religious instruction will necessarily involve administrators in questions concerning religion.

From "Biblical Literalism: Constricting the Cosmic Dance" by Conrad Hyers in *Is God a Creationist? The Religious Case Against Creation-Science* edited by Roland Mushat Frye. © 1983 by Charles Scribner's Sons. Reprinted by permission.

Conrad Hyers, Professor of Comparative Mythology and History of Religions at Gustavus Adolphus College, points beyond the stalemate between a dogmatic scientific creationist position which would read Genesis as literal fact and an evolutionary theory of the origin and the development of life which is "atheistic." He shows how the poetic "myths" of the Bible and the empirical data of the scientists are both true, in their differing ways of voicing truth; that therefore science and religious faith are compatible, and can be so taught in our public schools.

* * *

"Biblical Literalism: Constricting the Cosmic Dance"

Woe to him who strives with his Maker,
an earthen vessel with the potter!
Does the clay say to him who fashions it,
'What are you making?'
or 'Your work has no handles'? [Isa. 45:9]

With all the decades of scientific research and biblical scholarship that have intervened since the Scopes "monkey trial" in 1925, one might have thought that the issues were by now passé. Yet the recent wave of school-board hearings, legislative bills and court cases suggests that literalism is a persistent phenomenon. Indeed, we may be seeing only the top of the turnip.

The literalist mentality does not manifest itself only in conservative churches, private-school enclaves, television programs of the evangelical right, and a considerable amount of Christian bookstore material; one often finds a literalist understanding of Bible and faith being assumed by those who have no religious inclinations, or who are avowedly antireligious in sentiment. Even in educated circles the possibility of more sophisticated theologies of creation is easily obscured by burning straw effigies of biblical literalism.

But the problem is even more deep-rooted. A literalist imagination—or lack of imagination—pervades contemporary culture. One of the more dubious successes of modern science—and of its attendant spirits technology, historiography and mathematics—is the suffusion of intellectual life with a prosaic and pedantic mind-set. One may observe this feature in almost any college classroom, not only in religious studies, but within the humanities in general. Students have difficulty in thinking, feeling and expressing themselves *symbolically*.

The problem is, no doubt, further amplified by the obviousness and banality of most of the television programming on which the present generation has been weaned and reared. Not only is imagination a strain; even to imagine what a symbolic world is like is difficult. Poetry is turned into prose, truth into statistics, understanding into facts, education into note-taking, art into criticism, symbols into signs, faith into beliefs. That which cannot be listed, outlined, dated, keypunched, reduced to a formula, fed into a computer, or sold through commercials cannot be thought or experienced.

Our situation calls to mind a backstage interview with Anna Pavlova, the dancer. Following an illustrious and moving performance, she was asked the meaning of the dance. She replied, "If I could say it, do you think I should have danced it?" To give dance a literal meaning would be to reduce dancing to something else. It would lose its capacity to involve the whole person. And one would miss all the subtle nuances and delicate shadings and rich polyvalences of the dance itself.

The remark has its parallel in religion. The early ethnologist R.R. Marett is noted for his dictum that "religion is not so much thought out as danced out." But even when thought out, religion is focused in the verbal equivalent of the dance: myth, symbol and metaphor. To insist on assigning to it a literal, one-dimensional meaning is to shrink and stifle and distort the significance. In the words of E.H.W. Meyerstein, "Myth is my tongue, which means not that I cheat, but stagger in a light too great to bear." Religious expression trembles with a sense of inexpressible mystery, a mystery which nevertheless addresses us in the totality of our being.

The literal imagination is univocal. Words mean one thing, and one thing only. They don't bristle with meanings and possibilities; they are bald, clean-shaven. Literal clarity and simplicity, to be sure, offer a kind of security in a world (or Bible) where otherwise issues seem incorrigibly complex, ambiguous and muddy. But it is a false security, a temporary bastion, maintained by dogmatism and misguided loyalty. Literalism pays a high price for the hope of having firm and unbreakable handles attached to reality. The result is to move in the opposite direction from religious symbolism, emptying symbols of their amplitude of meaning and power, reducing the cosmic dance to a calibrated discussion.

One of the ironies of biblical literalism is that it shares so largely in the reductionist and literalist spirit of the age. It is not nearly as conservative as it supposes. It is *modernistic*, and it sells its symbolic birthright for a mess of tangible pottage. Biblical materials and affirmations—in this case the symbolism of Creator and creation—are treated as though of the same order and the same literary genre as scientific and historical writing. "I believe in God the Father Almighty" becomes a chronological issue, and "Maker of heaven and earth" a technological problem.

To suggest that the first chapters of Genesis ought to be read in the classroom as an alternative to evolutionary theories presupposes that these chapters are yielding something *comparable* to scientific theories and historical reconstructions of empirical data. Interpreting the Genesis accounts faithfully, and believing in their reliability and significance as divine revelation, is understood to mean taking them literally as history, as chronology, as scientific truth. In the words of Henry Morris, a leading "scientific creationist": "The Biblical record, accepted in its natural and literal sense, gives the only scientific and satisfying account of the origins of things.... The creation account is clear, definite, sequential and matter-of-fact, giving every appearance of straightforward historical narrative" (*The Remarkable Birth of Planet Earth* [Bethany, 1978], pp. iv,84).

Two further ironies result from such literalism. The biblical understanding of creation is not being pitted against evolutionary theories, as is supposed; rather, evolutionary theories are being juxtaposed with literalist theories of biblical interpretation. Doing this is not even like comparing oranges and apples; it is more like trying to compare oranges and orangutans. Even if evolution is only a scientific theory of interpretation posing as scientific fact, as the creationists argue, creationism is only a religious theory of biblical interpretation posing as biblical fact. And to compound the confusions, these biblical "facts" are then treated as belonging to the same level of discourse and family of concerns as scientific facts, and therefore supportable by scientific data, properly interpreted. Yet if one is unable to follow all these intertwinings, let alone bow the knee, a veritable Pandora's box of dire fates awaits:

> Belief in evolution is a necessary component of atheism, pantheism, and all other systems that reject the sovereign authority of an omnipotent personal God. [It] has historically been used by their leaders to justify a long succession of evil systems—including fascism, communism, anarchism, nazism, occultism, and many others. [It] leads normally to selfishness, aggressiveness, and fighting between groups, as well as animalistic attitudes and behavior by individuals [*ibid.*, vii].

But the greatest irony is that the symbolic richness and power—the *religious* meaning—of creation are largely lost in the cloud of geological and paleontological dust stirred up in the confusion. If one were to speak of a hermeneutical fall, it would have to be the fall into literalism. Literalism diverts attention from, as well as flattening out, the symbolic depth and multidimensionality of the biblical texts. The literalist, instead of opening up the treasurehouse of symbolic imagination, digresses into more and more ingenious and fantastic attempts at defending literalism itself. Again and again the real issue turns out to be not belief in divine creativity but belief in a particular theory of Scripture, not faith but security. The divine word and work ought to have better handles!

Even among interpreters who do not identify with the literalism of the creationists, one often finds a sense of relief expresed in noting that the sequence of days in Genesis 1, if viewed as eons, offers a rough approximation to modern reconstructions of the evolution of matter and life. It is a *very* rough approximation, considering such difficulties as that the sun, moon and stars were not created until the fourth "eon," following the earth and vegetation in the third. And even if all rough correlations could be made smooth by convoluted arguments about cloud covers and the like, the two Genesis accounts themselves, taken as chronologies, do not agree. In Genesis 2, for example, Adam is created *before* plants and animals, and Eve after. Still, no matter how close the approximations, the entire line of argument is a lapse into literalism and its assumption that this account is in some way comparable to a scientific, historical one.

* * *

When one looks at the myths of surrounding cultures, in fact, one senses that the current debate over creationism would have seemed very strange, if not unintelligible, to the writers and readers of Genesis. Scientific and historical issues in their modern form were not issues at all. Science and natural history as we know them simply did not exist, even though they owe a debt to the positive value given to space, time, matter and history by the biblical affirmation of creation.

What did exist—what very much existed—and what pressed on Jewish faith from all sides, and even from within, were the *religious* problems of idolatry and syncretism. The critical question in the creation account of Genesis 1 was polytheism versus monotheism. *That* was the burning issue of the day, not some issue which certain Americans 2,500 years later in the midst of a scientific age might imagine that it was. And one of the reasons for its being such a burning issue was that Jewish monothatism was such a unique and hard-won faith. The temptations of idolatry and syncretism were every-where. Every nation surrounding Israel, both great and small, was polytheistic; and many Jews themselves held—as they always had—similar inclinations. Hence the frequent prophetic diatribes against altars in high places, the Canaanite cult of Baal, and "whoring after other gods."

Read through the eyes of the people who wrote it, Genesis 1 would seem very different from the way most people today would tend to read it—including both evolutionists who may dismiss it as a prescientific account of origins, and creationists who may try to defend it as the true science and literal history of origins. For most peoples in the ancient world the various regions of nature were divine. Sun, moon and stars were *gods*. There were sky gods and earth gods and water gods. There were gods of light and darkness, rivers and vegetation, animals and fertility. Though for us nature has been "demythologized" and "naturalized"—in large part because of this very passage of Scripture—for ancient Jewish faith a divinized nature posed a fundamental religious problem.

In addition, pharaohs, kings and heroes were often seen as sons of gods, or at least as special mediators between the divine and human spheres. The greatness and vaunted power and glory of the successive waves of empires that impinged on or conquered Israel (Egypt, Assyria, Babylon, Persia) posed an analogous problem of idolatry in the human sphere.

In the light of this historical context it becomes clearer what Genesis 1 is undertaking and accomplishing: a radical and sweeping affirmation of monotheism vis-a-vis polytheism, syncretism and idolatry. Each day of creation takes on two principal categories of divinity in the pantheons of the day, and declares that these are not gods at all, but creatures—creations of the one true God who is the only one, without a second or third. Each day dismisses an additional cluster of deities, arranged in a cosmological and symmetrical order.

On the first day the gods of light and darkness are dismissed. On the second day, the gods of sky and sea. On the third day, earth gods and gods of vegetation. On the fourth day, sun, moon and star gods. The fifth and sixth days take away any associations with divinity from the animal kingdom. And finally human existence, too, is emptied of any intrinsic divinity—while at the same time *all* human beings, from the greatest to the least, and not just pharaohs, kings and heroes, are granted a divine likeness and mediation.

On each day of creation another set of idols is smashed. These, O Israel, are no gods at all—even the great gods and rulers of conquering superpowers. They are the creations of that transcendent One who is not to be confused with any piece of the furniture of the universe of creaturely habitation. The creation is good, it is very good, but it is not divine.

We are then given a further clue concerning the polemical design of the passage when the final verse (2:4a) concludes: "These are the generations of the heavens and the earth when they were created." Why the word "generations," especially if what is being offered is a chronology of days of creation? Now to polytheist and monotheist alike the word "generations" at this point would immediately call one thing to mind. If we should ask how these various divinities were related to one another in the pantheons of the day, the most common answer would be that they were related as members of a family tree. We would be given a genealogy, as in Hesiod's *Theogony*, where the great tangle of Greek gods and goddesses were sorted out by generations. Ouranos begat Kronos; Kronos begat Zeus; Zeus begat Prometheus.

The Egyptians, Assyrians and Babylonians all had their "generations of the gods." Thus the priestly account, which had begun with the majestic words, "In the beginning God created the heavens and the earth," now concludes—over against all the impressive and colorful pantheons with their divine pedigrees—"*These* are the generations of the heavens and the earth when they were *created*." It was a final pun on the concept of the divine family tree.

The fundamental question at stake, then, could not have been the scientific question of how things achieved their present form and by what processes, nor even the historical question about time periods and chronological order. The issue was idolatry, not science; syncretism, not natural history; theology, not chronology; affirmation of faith in one transcendent God, not creationist or evolutionist theories of origin. Attempting to be loyal to the Bible by turning the creation accounts into a kind of science or history is like trying to be loyal to the teachings of Jesus by arguing that the parables are actual historical events, and only reliable and trustworthy when taken literally as such.

If one really wishes to appreciate more fully the *religious* meaning of creation in Genesis 1, one should read not creationist or anticreationist diatribes but Isaiah 40. For the theology of Genesis 1 is essentially the same as the theology of Deutero-Isaiah. They are also both from the same time period, and therefore part of the same interpretive context. It was a time that had been marked, first, by the conquest of most of Palestine— save Jerusalem—by the Assyrians under Sennacherib (ca. 701 B.C.) And a century later the Babylonians under Nebuchadnezzar had in turn conquered the Middle East, Palestine and even Jerusalem.

The last vestige of Jewish autonomy and Promised Land had been overrun. The Holy City had been invaded, the temple of Solomon destroyed, the city burned, and many of the people carried off into exile, leaving "the poorest of the land to be vine-dressers and plowmen" (II Kings 25:12). Those taken into Babylonian captivity, as well as those left behind, now had even greater temptations placed before them to abandon faith in their God, and to turn after other gods who were clearly more powerful and victorious.

Given the awesome might and splendor and triumphs of Assyria and then Babylon, was it not obvious that the shepherd-god of Israel was but a local spirit, a petty tribal god who was hardly a match for the likes of Marduk, god of Babylon?

Where *was* this god, or the people of his hand, or the land of his promise? Faith was hard and idolatry easy. And now a new and greater power, Persia, loomed on the horizon. Yet despite the littleness and powerlessness of a conquered people before the might and majesty of the great empires of the day, a prophet dared to stand forth and declare what Genesis 1 in its own way also declares:

> Who has measured the waters in the hollow of his hand,
> and marked off the heavens with a span,
> enclosed the dust of the earth in a measure
> and weighed the mountains in scales in a balance?
> Who has directed the Spirit of the Lord,
> or as his counselor has instructed him? [Isa. 40:12, 13]

Here too is a poetic affirmation which no literalism can reduce to its own scales and balances, and no symbolism or imagery exhaust.

> To whom then will you liken God,
> or what likeness compare with him?...
> Have you not known? Have you not heard?
> Has it not been told you from the beginning?
> Have you not understood from the foundations of the earth?
> It is he who sits above the circle of the earth,
> and its inhabitants are like grasshoppers;
> who stretches out the heavens like a curtain,
> and spreads them like a tent to dwell in;
> who brings princes to nought,
> and makes the rulers of the earth as nothing. [Isa. 40:21-23]

Had there been a controversy in the Babylonian public schools of the day—and had there been Babylonian public schools—these would have been the issues in debate.

Questions for Discussion

1. Let's say you are the teacher of a biology course in the eleventh grade of the local public high school. Would you teach the Darwinian process of natural selection of the human species as "theory" or "fact"? What empirical evidence might throw doubt on evolution as an adequate theory?

2. Let's say you are teaching a course in "The Bible as Literature" in an English class. How might you interpret the Old Testament materials in Genesis: as poetry or fact? Would a "mythological" interpretation create any problems for a Christian about certain doctrines of the Christian faith such as the miracles of healing by Christ, recorded in the New Testament, or the doctrine of his Resurrection and Ascension?

3. On the premise that there are different levels of meaning in biblical affirmations, some as (A) statements of empirical or historical facts, and some as (B) graphic or poetic imagery or myths but no less true for being "myths," how would you classify the following biblical verses: (A) or (B)?

   (a) "And she gave birth to her first-born son and wrapped him in swaddling cloths, and laid him in a manger, because there was no place for them in the inn." Luke 2:7

   (b) "He will gather the dispersed of Judah from the four corners of the earth." Isaiah 11:12
   or "In his hands are all the corners of the earth." Psalm 95:4
   (These verses assume the earth is not a globe but a flat plane with corners or "ends.")

   (c) "And on the seventh day God finished his work which he had done and he rested on the seventh day from all the work he had done." Genesis 2:2

Chapter Seven

Chapter Seven

State Regulation and Support of Church Schools

We now turn the coin over to examine the problem on the other side of the church-state issue. What is the valid extent of the state's regulations of private parochial education, and what should be the boundaries of those controls? Further, under the terms of the First Amendment, to what extent may public taxes be used to support church schools?

Here again, as with the issues discussed in the previous chapters, The prescription of a "wall of separation" is much too simple to be of help. Inevitably there is some sort of interaction and relationship. Perhaps the metaphor of a "border" between church and state is much more apt than that of a "wall of separation," for the "border" metaphor allows at some points crossovers and exchange, though at other points there are signs marked "Private–No Trespassing."

There are several trouble spots where these issues are joined, and where court decisions have tried to do justice both to the "free exercise" of religion in education and to the obligation of the state to protect common rights and the public welfare through law. Recall, if you will, that prior to the rise of public schools in the nineteenth century, education was the province of church and home. Then, as public schools became the dominant form, the various states tightened laws requiring public school attendance at primary and secondary levels and stiffened the standards of quality expected in order to insure at least minimal literacy and competence in the "basics" on the part of its citizens. Then, in the famous case of *Pierce v. Society of Sisters* (1925), the Supreme Court struck down an Oregon law requiring public school enrollment from age 8 to 16 as discriminatory against the preference of Roman Catholic parents that their children be educated at parochial schools. In the subsequent *Wisconsin v. Yoder* decision (1972), children of Amish families were excused from attendance at public high schools, out of deference to their parents' religious claims that their children should be taught at home after completing their primary education in the public schools.

There have been in recent years several factors that have intensified the issue. North Carolina especially has felt the impact of these forces, but there is disillusionment nationwide with the quality of education in our public schools. The decline in SAT scores, the lack of discipline, the rowdy behavior of students, and the low salaries of public school teachers have resulted in "a rising tide of mediocrity," as a recent Presidential commission on excellence in education reported. Parents of strong evangelical persuasion are angered that religious education is excluded by law from their children's schooling. The Supreme Court decision in *United States v. Brown* (1954) that segregated schooling by race is "inherently unequal" and the subsequent appearance of racially integrated schools, to which children have to be driven by bus away from their own neighborhoods at great expense and inconvenience, gave further impetus to the growth of "Free Christian Academies" financed by white Protestant churches. Plainly there is a mixture of good and bad motives in this movement of "white flight" from the public schools. On the positive side, there is the conscientious and sincere desire of parents for a quality of education that would give their children not only skills in literacy and math but also minds and hearts informed and inspired by the doctrines of religious faith. But also, on the bad side, there is a kind of velvet racism that would protect a child from racial mixing. There is no way to measure quantitatively how much white pride and prejudice have contributed to the mushrooming of Christian academies in North Carolina, but certainly they have been strong factors.

Recently in this state, there have been two instances where parents have carried this persuasion to the extreme of withdrawing their children from public schools to set up their own schools at home. In Harnett County, Larry Delconte and his wife, members of a fundamentalist group, set up a one-room school in their home called the Hallelujah School and taught their own two school-age children and two other younger children, contending that their interpretation of the Bible led them to believe parents should teach their children at home. Although a superior court judge upheld their right, the court of appeals said that the state's interest in compulsory education overrode their religious beliefs.[1]

In Tyrell County, another family, Peter and Carol Duro, withdrew their children from public school on the same ground of conscience–that the Bible commands parents to teach their children–and also because the public schools espouse the belief that doctors can cure disease and injury, with which the Duros disagree. Nor would they send their children to the local Christian school because of its teaching that water baptism is necessary for salvation, which the Duros do not believe either. Even though Mr. Duro holds a Master's degree in education and taught in the New York public schools for thirteen years, this evidence failed to dissuade the court from ruling against them. Mrs. Duro made the following plea: "It's dangerous for the state or the federal government to take control of personal lives, with the mass deciding what the individual should do. I think the individual should decide as long as they are not hurting anyone else. They're taking away our right to live according to Scripture."[2]

This controversy is not new; it has been boiling for some time. In 1978, some sixty-three fundamentalist "Christian schools and academies" refused to file annual reports for the N.C. State Board of Education on operations and standards in their schools on the conscientious ground of freedom of religion. In rejoinder, the position of the state was spelled out in a ruling of Judge Donald Smith in the federal district court, who said that "the state has a legitimate and compelling duty and interest in ensuring that all children are provided a basic education and have competent teachers." In short, for the common welfare, the state must act *in loco parentis* and require that children be enrolled in school until the age of sixteen. To assure that common right, he ruled that in order to be licensed, private schools and parochial schools must provide reports on (1) the certification of teachers in basic curricular courses, (2) curricular and graduation requirements, (3) promotion requirements of students, (4) the length of the school term and the school day, and (5) compliance with health and safety laws concerning school personnel and students. This regulatory scheme, he pointed out, does not interfere with the church members' right to religious freedom. "The regulations do not require the defendants to allocate instruction time, or teach traditional subjects in the manner which effectively precludes religious education.... They have never been directed to teach subjects contrary to their sincere religious belief."[3]

The issue boiled up in slightly different form in the litigation and controversies in 1983 between Bob Jones University and the Goldsboro Christian Schools and the federal government. Freedom of religious schools was pitted against state controls. Here the race issue was integral to the plot. At Bob Jones University, although black students were admitted, no interracial dating or marriages were allowed. At the Goldsboro Christian Schools, blacks were not admitted. These policies, both schools claimed, were based on their religious beliefs. The decision of the courts was that since such policies violated the anti-discriminatory laws of the land, these schools would be denied tax exemption, because (according to Justice Burger's decision) ever since *Brown v. Board of Education*, "racial discrimination in education violates a most fundamental national policy as well as the rights of individuals."

When the decision was handed down, the president of Bob Jones University—in an address to the student body—responded in rage: "We're in a bad fix in America when eight evil old men and one vain and foolish woman can speak a verdict on American liberties." The university lowered its flag to half-mast. A somewhat more restrained reaction to the decision was made by Dean Kelley, a noted authority on church-state relations in America, who wrote:

> In the aftermath of *Bob Jones University*, how many churches will be prepared to risk their tax exemption by (1) engaging in secondary boycotts [against firms] doing business in South Africa, (2) offering sanctuary to refuge-seekers from Central America, or (3) counseling young people to refuse to register for the draft, or otherwise dissenting from what an incumbent administration views as proper conduct.[4]

To carry the problem to the extreme, how far may discriminatory policies of private schools be allowed to extend? May the state properly deny tax exemption to a private school that discriminates on the basis of sex? This was the issue at stake in the Grove City College case. It is interesting to note—though no religious premise was involved here—that the town of Whately, Massachusetts, attempted (without success) to tax property owned by Smith College on the grounds that the college admits only women.

Finally, a complex issue to be considered is the matter of "parochiaid." What should be the terms and limits of tax funds of the state to support church-related and/or private schools? The possible areas of state support can be arranged graphically along the following spectrum:

Salaries for school chaplains	Salaries of teachers of religious subjects	Tuition credit or rebate to parents of parochial school children	Tax exemption	Driver's education, civics textbooks	Free school lunches	Bus transportation to parochial schools	Fire inspection, building safety, police, traffic protection, etc.

In *Walz* and *Lemon v. Kurtzman*, the three criteria of constitutionality set by the Supreme Court were that a statute must have a secular legislative purpose, its principal and primary effect must be one that neither advances nor inhibits religion, and the state must not foster an excessive government entanglement with religion. Applying these criteria to each one of the practices along the spectrum, it is plain that the policies and measures on the far right of the line are legitimate and necessary, since they serve only a secular purpose, the safety and health of the children. School lunches or the driver's education course do not impart any religious doctrines. But on the far left, to use public funds to pay a school chaplain's salary would be illegitimate, since it would entail "excessive entanglement" of church and state. (However, we should note that at another level this policy is not observed when public funds are used to pay chaplains' salaries at Annapolis, West Point and the Air Force Academy.)

But the policies in the middle of this spectrum are more difficult and problematic. Is tax exemption for church schools an indirect benefit extended to the church by the state? In *Walz v. Tax Commission*, the Supreme Court stated that real property tax exemption provides "an indirect economic benefit" to churches, but "is not sponsorship since the government does not transfer part of its revenue to churches but simply abstains from demanding that the church support the state." The tuition tax credit plan, rebate proposal, or "voucher" system would provide parents of children in parochial schools with tax credits to pay for their children's parochial education.

In 1983, which was officially declared by President Reagan as "the year of the Bible," the White House pushed hard for legislation that would permit a tax credit plan for parents of children enrolled in private and parochial schools. Reagan's proposal (as he claimed in an address to Roman Catholic educators) was "not a divisive threat to public education. On the contrary, the plan would stimulate public schools by subjecting them to increased competition from church-related schools and other private institutions." The proposal would allow a family with an adjusted gross income of $50,000 or less to take a maximum tax credit of $500 for each child. It would benefit the minorities and the poor and "working families that now bear the double burden of taxes and tuition." He was careful to note that tax credits would not be available to parents sending their children to schools that discriminate on the basis of race.[5]

An editorial in the *New York Times* protested:

> If as some critics argue, the President's modest credit of $500 does not induce many transfers from public to non-public schools, then it amounts to nothing more than a windfall to parents already paying tuition. Why not make that money available more directly to improve public education?. . . The most basic problem with tuition tax credits: public schools were established to assure universal availability of elementary and secondary education. Yet private schools, even if not overtly discriminatory, reserve the right to exclude students. . . . Underwriting schools that aren't really open to all condones elitism, if not segregation.[6]

The proposal was defeated in the Senate by a wide margin, but the issue is far from settled. The President has affirmed his determination to push again for a tax credit measure. Piety is an essential ingredient in common education, public or private. As Mr. Reagan puts it, "The great Western thinkers tell us that the purpose of education is to foster wisdom and virtue. How . . . can such an endeavor succeed without recognizing the reality of our Creator?"

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[1] *Durham Morning Herald*, 7 December 1983.

[2] *Durham Morning Herald*, 29 January 1984.

[3] Raleigh *News and Observer*, 6 September 1978.

[4] Dean Kelley, "A New Meaning for Tax Exemption," *Journal of Church and State* (Autumn 1983), Vol. 25, p. 435.

[5] *New York Times*, 16 April 1982, 1:3.

[6] *New York Times*, 20 April 1982, 1:26.

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Reading 19: Family Choice in Education

From *Family Choice in Education: The New Imperative* by Onalee McGraw (Washington, D.C.: The Heritage Foundation, 1978). Reproduced by permission of The Heritage Foundation.

One basic motif in the case made for the Christian academies is the prior right of parents over the state to decide about the quality of education they feel needful for their children. In the following selection published by the Heritage Foundation, Onalee McGraw supports this position.

* * *

"Education at the Crossroads: Family Choice or State Control"

The issue at hand is who should have ultimate control over the child's education, the family or the professional educators who act as agents of the state. The essence of American pluralism is that we are a diverse people of widely differing values, beliefs and religions and that families should be free to form and practice their beliefs within a framework of shared civility and mutual respect for the rights of others.

In a recent book, *Education by Choice: The Case for Family Control*, law professors John E. Coons and Stephen D. Sugarman conclude that the current state-run school system is inadequate to guarantee this vital freedom to all families. They hold that if the ultimate aim of education is the fulfillment of the best interests of the child, the case for reforming the system to enable families to make the definitive educational choices for their children is overwhelming.

They cite three compelling reasons why the family is more qualified than professional educators to make educational decisions in the child's best interest. It is only within the nurturing home environment that the family communicates with, knows and cares for the child during his formative years. The love, affection and concern inherent in the family tie equips the average parent to make reasonable educational choices for the child.

Coons and Sugarman find the assumption "incredible" that the education professional could be considered more capable of deciding the type of education that best suits a particular child than the child's parents. This is particularly true in view of the fact that professional educators make crucial educational choices for large numbers of children in the mass and cannot, by the very nature of the system, deal with children in a personal, knowing and caring fashion uniquely characteristic of family life.

Proponents of family choice have commented on the contradiction inherent in the current system in which the state trusts the family to make virtually all decisions vitally affecting the child including food, hours of rest, shelter, medical care and religious affiliation. Only in the area of education does the state "virtually emasculate the family's options."

Another proponent of family choice, economics professor Richard E. Wagner, points out that the argument that choices about education should be made by educational experts instead of parents is inconsistent with the democratic premises of our society. If citizens cannot be trusted to make educational choices, why should they be entrusted to make political choices as to who will run the government?

In the same vein, John Fentress Gardner has stated:

> It is a strange paradox that those who are most fanatical about the necessity for the democratic school system are also most distrustful of the people. The "people" they fear are likely to prefer the tawdry, the fake, the shortsighted, the selfish. But if one does not believe that most of the people, most of the time will prefer for their beloved children the best of what is available, on what basis does one's confidence in democracy rest?

At the time of our country's founding, education was a function of the family and the church. The establishment of the public school system in the nineteenth century envisioned local communities controlling their own schools, despite the fact that they were funded by the state....

We may profitably ponder anew the truism that *education is always religious*, a concept accepted by leading educational theorists, humanist and Christian alike, but consistently overlooked by the Supreme Court. In its school aid decisions the Court has tended to view "religion" as that which pertains only to organized theistic religion.

In its future deliberations on the First Amendment rights that all Americans, not just those professing a non-theistic religion, properly claim, the Court would profit from a careful reading of the father of modern public education, John Dewey, a professed non-theistic humanist and a chief architect of the first Humanist Manifesto. In discussing the role that public schools should, in his view, play in fulfilling the universal religious impulse, Dewey stated:

> Why should we longer suffer from deficiency of religion? We have discovered our lack; let us set the machinery in motion to supply it.... Education is the modern universal purveyor, and upon the schools shall rest the responsibility for seeing to it that we recover our threatened religious heritage.

Like many non-theistic humanists of today who work so diligently to uphold an unbreachable wall of separation of church and state, Dewey saw the perfect fulfillment of his own religion in the state controlled secular school. Only within the last generation has it become increasingly apparent that Dewey's dream of a non-theistic secular state-supported school system has been realized....

Proposals for Family Choice

Although there is increasing discussion of the case for family choice, many questions remain as to how this might be accomplished. The focus of debate is on proposals that will reform the current system of education to permit families to choose the kind of education they prefer for their children.

The emphasis is on measures that directly affect the individual family rather than the school. Proposals that merely seek to provide state funding for private schooling are likely to accomplish little more than the establishment of the same kind of programmatic controls over private schools that now dominate public institutions.

One possible path to family choice lies in measures that would have an impact directly on all families regardless of the educational choices they make, public or private. This broad view is in keeping with the concept of education as the primary responsibility of the family rather than the state or church. It builds on the First Amendment tradition that supports the rights of families in the formation of belief. . . .

There have been a number of proposals which move toward the establishment of family choice and the disestablishment of programmatic control by the state. E.G. West, Professor of Economics at Carleton University in Ontario, Canada, has suggested the challenging proposal that only patrons of state schools be taxed under a "user tax" which would be paid over the lifetime earnings of families using public schools. Professor West's proposal has provoked interesting reactions from a number of scholars and the resulting debate has been published in *Nonpublic School Aid*.

West's proposal has the advantage of keeping the private school sector totally unconnected to the state, thereby avoiding the undesirable potential for state control over private schools. However, as John Coons points out in responding to West's proposal, if family choice is to be within reach of all families and not just the nonpoor, some means must be found to develop an equitable system that takes this concern into account.

In *Education by Choice*, Coons and Sugarman propose a voucher system in which all families participate in a combination of family income and vouchers in amounts that are proportionate to family income which would be applicable to all schools, public, private, religious or secular, which verify to the state a minimum of desirable educational outcomes confined to reasonable competence in basic academic skills.

The tuition tax credit concept is another possible means toward increasing family choice whose popularity is demonstrated by the broad bipartisan support that it has received in Congress during this session. The proposed Senate version provides for a tax rebate to low-income families, thereby permitting them a measure of educational choice they do not now have.

Low-income parents, trapped in schools not of their own choosing are growing angry as they try to piece together the lives of their children who have been cheated of an education. Nat Hentoff reports the tragic plight of a black father in New York City as he watches his once alert and curious kindergartner falling further behind with each passing year:

> The black father was so consumed with anger and despair that it was hard for him to speak. "You people," he said to the impassive members of the board of education, "operate a . . . monopoly like the telephone company. I got no choice where I send my child to school. I can only go where it's free. And she's not learning. That's your responsibility, it's the principal's responsibility, it's the teacher's responsibility that she's not learning. And when you fail, when everybody fails my child, what happens? Nothing. Nobody gets fired. Nothing happens to nobody except my child." Without response, the board of education went about its business, business which clearly did not include that black child.

One of the greatest concerns, however, with any proposals that seek to provide family choice, whether they be vouchers, tuition tax credits or whatever, is that such proposals do not result in state control over private schools. There appears to be little point in struggling private schools being absorbed into the public sector as "recipient institutions" which must be "accredited" or "approved" by the state in what amounts to a plethora of programmatic controls that mandate course, content, teaching methods, certification of teachers and the inevitable educationist fads such as "career education," "environmental education" or "eradication of sexual stereotypes."

John Fentress Gardner has formulated a set of principles based on the constitutional, philosophical and legal implications of the authentic meaning of religion that should serve well as a guide in efforts to achieve family choice for all families:

A. The state must be neutral with respect to religious institutions in keeping with the First Amendment.

B. In the first analysis, schools are religious institutions.

C. Therefore the state must become neutral with respect to the support and control of schools.

Bearing in mind the concept that the First Amendment confirms the right to freedom in the formation of belief and that education entails the essence of belief formation, "the spirit of the First Amendment requires us to realize that state power should keep hands off the schools as it does off the churches. The state schools must eventually, by due process and by many small steps, and as a matter of harmonious evolution . . . be disestablished as state churches have been."

Practical Steps Toward Family Choice: Eliminating Programmatic Controls

The controls over education exercised by the state governments and the federal government are largely programmatic in nature. In order for parents to be in compliance with compulsory attendance laws, their child must spend a required number of hours and years under the tutelage of teachers certified by the state in courses mandated by the state. If the child completes the requisite number of years in this process he receives a certificate to demonstrate that he is "educated." Moreover, state boards of education, under authorization by state legislatures, issue regulations that further specify the nature of the process the child must undergo.

In the "McGuffey Reader" era, this process was largely confined to the basic skills. Moreover, teachers in that era were required to take tests in basic fields of knowledge before they could be certified to pass that knowledge on to schoolchildren.

In the present era, professional education interests have locked state control over schooling into a programmatic agenda that may include all manner of regulations for the teaching of, for example, sex education, interpersonal relationships, family life education, health, contemporary problems, environmental education, and so on.

As the states have increased the scope of programmatic controls, frequently to be "in compliance" with federal laws or federal bureaucratic regulations, many critics have noted that there has not been a corresponding increase in academic achievement. Indeed it is clearly evident that as programmatic controls have increased, achievement in the basic skills as demonstrated by standardized tests has decreased.

Consider the famous story of the California boy who was processed through twelve years in the public schools and upon graduation could not read. Although the parents were not successful in holding the state schools responsible through the courts, the scandal caused by this case and others like it, together with increased public awareness of widespread basic skills deficiencies, has prompted state legislatures to respond with the passage of "minimum competency" requirements.

For the first time since the ascendancy of modern progressive education, the public is demanding and getting a response from state legislators to require something more from the students than the occupancy of a seat in a public schoolroom for twelve years. This development is a healthy sign that achievement as shown by objective standardized tests is now being recognized as a more meaningful criterion of "educational achievement" than the present process-oriented requirements. However, the future success of these minimum competency requirements is highly problematic in view of the enormous clout of teachers' unions, whose antipathy to standardized tests is well known.

In regard to state certification of who is fit to teach, a process- oriented certification system, installed largely to serve the preferences of vested education interests, may, for example, require teachers to be certified if they have the required number of courses in psychology, behavior modification, humanistic education, and "methods," but who do not necessarily possess competence in basic skills and subjects. In the wake of an aroused public, some school systems are now testing teachers in basic subject areas with the startling results that significant numbers of certified teachers are failing tests in the basic skills the parents expect their children to be taught.

Some state educational bureaucracies, seeing the burgeoning Christian school movement as a threat to their hegemony, have aggressively sought to extend programmatic controls over private schools. In the celebrated case of *Ohio v. Whizner*, the Ohio court held that programmatic controls imposed by the Ohio State Board of Education over a private Christian school and its client families violated the free exercise of religion of the defendants. The same issue is currently being litigated in Kentucky and North Carolina where private Christian schools receiving no state funds are asserting their right to function free of the programmatic controls of the state.

Concerned citizens in recent years have discovered that their local schools, under regulations promulgated by state educational bureaucracies, are mandating requirements that students be processed to develop desirable psychological and sociological attitudes and values. In Pennsylvania, for example, parents have strenuously objected to state-mandated educational goals that expressly require the socialization of children in the "affective domain" of attitudes and beliefs. The constitutional tradition of *Pierce* and *Yoder* should place such improper programmatic objectives beyond the pale.

Recently the Maryland legislature mandated the teaching of "moral education" in the schools, in part as a hoped for antidote to violence and mayhem in the schools. It is difficult to understand, however, how moral education, based on the premises of situation ethics and glorification of the self, can result in reduced numbers of mugged kindergartners, broken windows and flooded restrooms.

There is reason to believe that the climate is right for concerned citizens to aggressively pursue their rights in regard to the programmatic controls that go far beyond any legitimate interest the state may have in basic skill competence.

There are a number of alternatives to the present structure of the programmatic controls that could be established at the state level. For example, Donald Erickson has suggested that a state licensing authority, composed of representatives of a broad range of interests, including business, labor and civic leaders drawn from outside the education establishment, could be established to license schools. The focus of licensing and approval should be on specific educational *ends, not means.* Parents and children should be given complete freedom to decide how specified competencies will be required, so long as each child demonstrates periodically (by responding to standardized objective tests, for example), that reasonable academic progress is being made.

Numerous options are available for maintaining the state interest in literacy and academic competence. The choice is not simply between maintaining programmatic controls and no controls at all. The essential point is that controls and regulations ministered by the state focus upon widely agreed-upon educational outcomes in the basic skill areas within a framework that assumes that families have the right, the competence and the special vocation to make reasonable educational choices for their own children.

Reading 20: State Regulation of Christian Schools

From the *Durham Morning Herald*, 17 January 1978. Reproduced by permission.

There was a mixed reaction to Judge David Smith's ruling that the state of North Carolina has the right to regulate private schools. Though the Friends School in Durham (Quaker) filed an *amicus curiae* brief supporting the position of the Christian Academies, the Roman Catholic parochial schools in this state (and nationwide) have complied with state regulations regarding teacher certification, competency tests, and so forth. In general, a positive response to the court's ruling was voiced in the following editorial in the *Durham Morning Herald.*

"Christian Schools Must Obey Regulations"

It's ticklish, this business of the state's approximately 80 Christian schools refusing to obey some of the basic requirements of the state law governing education.

Appearing before the state Board of Education two weeks ago, Christian school leaders announced their unwillingness to comply with any state regulation of their schools. No attendance records would be reported, no standardized tests would be given, no lists of courses, pupils or teachers, whether certified or not, would be turned over to the state, they said.

Spokesmen for the schools defended the resistance to state regulation on the ground that they took nothing from the state or federal government and thus were not bound to give anything in return. Furthermore, they said, it was a matter of religious freedom; the schools were inextricably wrapped up in the lives of the churches—state control of one implied state control of the other.

Without trying to offend those supporting the right of religious schools to do as they please, it must be said plainly that they are wrong. In their eagerness to uphold one of our basic rights, religious freedom, they have trampled on another, the right to an education.

The first clause of the First Amendment of the U.S. Constitution says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." However, the views of the protesters to the contrary, nothing is being done to abridge such a right among the people of North Carolina.

We are each free to attend the church of our choice in the manner we see fit. No one can or should deny us that. However, according to the laws of this state, it is also mandatory that each one of us go to school for some set limit of time, be taught there by qualified teachers and be tested to make sure we learn at least a minimal amount of knowledge to equip us to make our way through life.

A church may preach whatever gospel it wants; that is its inalienable right. But when school is in session in that church, it bows to a different, more secular master, the state. If a church wants to run a Sunday school on its premises seven days a week, no one can argue that it cannot do that; but don't call it a school, and don't abridge the right of the students enrolled there to get the same basic education afforded their peers in public school.

Schools are the sanctum of knowledge, freely given and open to question. Dogma is the preserve of the church. If we cannot live with those facts, we return to the Middle Ages, where Galileo was locked up by the Roman Catholic church for insisting that the sun, contrary to religious teaching of the time, did not revolve around the earth.

Life today is a complicated business, and the more resources we have in common to winnow through the complications, the better off we are as a society. The right to an education is one of the tools this society has agreed that free people need to get through life, but it cannot be just any education. On some basic concepts we must have agreement or our very way of life is threatened. Where that education is obtained is not questioned. If the churches are willing to help provide it, their cooperation should be encouraged, and so long as church schools help their students through the rudiments of learning, they are free to teach anything else they please.

Religion, many would agree, is also a necessary adjunct to our lives, and it, too, bolsters us. Indeed, religious institutions and civil institutions can cooperate, each supplementing the other. And so long as each institution respects what the other has to offer mankind, we are a healthy society. But where one tries to take precedence over the other, we are asking for trouble.

* * *

Reading 21: Christian Schools Should Be Free

From the *Durham Morning Herald*, 17 January 1978. Reproduced by permission.

In response to the *Durham Morning Herald editorial*, Ned L. Mathews, principal of the Cresset Christian Academy, wrote the following letter of protest to the editor.

* * *

In response to your editorial of Jan. 17 regarding "Christian Schools Must Obey Regulations," I am constrained to challenge your assumptions and to attempt to set the record straight for the public debate which will ensue should court litigation develop.

As the administrator of Cresset Christian Academy of this city, I assure you that neither I nor administrators of other Christian schools in North Carolina take lightly the interference of state authorities with our God-given right to educate our children according to Biblical standards. Christian education is not a preference with us, but rather a conviction.

To quote you, "religion is a necessary adjunct to our lives." Sir, we do not consider our faith in Jesus Christ as an "adjunct" but an integral part of our very existence. We concur with Paul the apostle who stated that "to live is Christ."

The most glaring error in your editorial is your statement that education is a right guaranteed by the state. And then you compound this by insisting that we can't call our schools such unless the "students enrolled there [receive] the same basic education afforded their peers in public school." This is just what we do not intend to happen. If we did not feel we could provide a better education for children than that afforded by public schools we would not remove them in the first place. The children in Christian schools across this state are receiving a superior education and this is easily demonstrated through competency scores. Your readers should also know that nearly every Christian school in North Carolina conducts both diagnostic and prescriptive competency tests. We have no objection to competency tests; in that your editorial, once again, is in error. We do, however, strongly object to state-administered competency tests and, yes, our tests, such as the California Achievement test, are "standardized."

The state has no authority over our consciences or the content of our instruction. Education is not the obligation of the state, but of parents. This parental right is protected by the authority of the Bible. Such an education is the heritage of our nation. If the editor would review his history, he would discover that nearly all education in the early days of America was rooted in and provided for by the churches. "Public education" is a much later development and developed on the assumption that the emphasis begun by the churches in regard to religious instruction would continue into posterity. For this reason, until recent decades, Bible reading and prayers were the standard fare for the beginning of each school day. The impetus of early education in America resulted from a sincere desire by parents that their children master the languages in order that they might be enabled to read and understand the Bible. This was the impetus for the founding of Harvard University in 1646.

Furthermore, it is important for all to see that the Christian schools of North Carolina are not in violation of reasonable laws. We have no protest against those regulations of the state which serve a "compelling interest," such as fire, health, and sanitation codes. Your editorial is quite in error in inferring [sic] that we are against regulations.

Here is what we do oppose: we oppose the interference of the state into our right as parents to educate our children in that which is consistent with our own Biblical philosophy. We reject the philosophy of John Dewey and "progressive education" (so-called, though it is clearly seen in its product to be more "regressive" than "progressive").

The annual reports pursuant to "state approval," and the certification by the state of our teachers, are a clear infringement upon our right to educate our children as we see fit. Such things are tantamount to control by the state.

At Cresset Christian Academy we have 167 students who attend school for 180 days a year, score six months to one and a half years ahead of the national averages on the "California Achievement Test," and are allowed to receive Bible-based character training as well. We fail to see that the state has any interest in this beyond those items of "compelling interest" to which I have already referred.

If necessary, we will go to court to protect our right to Christian education under the auspices of local churches, and indeed, our Christian Education Association, of which we are members, has already secured an attorney to this end.

Thank you for allowing me this forum to express our concerns.

Ned L. Mathews
Cresset Christian Academy

Questions for Discussion

1. The section quoted above from the Heritage Foundation article by McGraw asserts the prior right of the family over the state in the education of children, since professional educators cannot deal with children "in a personal, knowing and caring fashion uniquely characteristic of family life." Reflecting on your own educational experiences in childhood and/or your experiences as a parent, would you agree with this generalization?

2. Assume you are a member of the Administrative Board of Lakewood United Methodist Church situated in an all-white section of town. A number of parents on the Board propose that the church use its facilities to establish a Free Christian Academy for the first six grades, open to any children in the neighborhood who can afford the tuition. The curriculum would include the basics and Bible instruction as well. The academy would avoid the inconvenience, expense, and danger of having children bussed across town to an integrated school of admittedly poor quality. What would be your response to this proposal?

3. Along the spectrum discussed above, where would you draw a boundary line dividing legitimate from illegitimate policies of state support for church schools?

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Two journals dealing with the issues of this volume are:

Church & State, published by Americans United for Separation of Church and State, 8120 Fenton Street, Silver Spring, Maryland.

Journal of Church and State, published by Baylor University, Waco, Texas.